(15)

No. 98-97

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In The

Supreme Court of the United States

October Term, 1998

ELOISE ANDERSON, *et al.*,

Petitioners,

vs.

BRENDA ROE and ANNA DOE, *et al.*,

Respondents.

On Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

JOINT APPENDIX

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[2] Citations are to the Clerk's Docket in the District Court.

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Docket Entries

IN THE UNITED STATES COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRENDA ROE, et al.,

Plaintiffs,

v.

ELOISE ANDERSON,

Defendants.

_____/

97-CIV-S-97-0529 DFL

DATE	NR	PROCEEDINGS
4/1/97	1	COMPLAINT for Declaratory and Injunctive Relief, fee status paid; receipt #177889, assigned to Honorable David F. Levi Referred to Magistrate Judge John F. Moulds (vc) [Entry date 04/02/97]
4/1/97	2	NOTICE by plaintiff Brenda Roe, plaintiff Anna Doe of claim of unconstitutionality of federal law [ED LR 123(A)] (vc) [Entry date 04/02/97]
4/1/97	3	APPLICATION by plaintiffs Brenda Roe and Anna Doe for provisional class certification (vc) [Entry date 04/02/97]
4/1/97	4	MEMORANDUM by plaintiff Brenda Roe, plaintiff Anna Doe in support of provisional class certification [3-1] (vc) [Entry date 04/02/97]
4/1/97	5	DECLARATION of Mark D. Rosenbaum in support of class certification [3-1] (vc) [Entry date 04/02/97]

4/1/97	–	LODGED [proposed] Order provisionally certifying plaintiff class by plaintiff Brenda Roe, plaintiff Anna Doe (vc) [Entry date 04/02/97]
4/1/97	–	LODGED [proposed] Order to Show Cause by plaintiff Brenda Roe, plaintiff Anna Doe (vc) [Entry date 04/02/97]
4/1/97	6	NOTICE OF MOTION AND MOTION for temporary restraining order by plaintiffs Brenda Roe and Anna Doe, and for order to show cause motion TO BE HEARD by Honorable Lawrence K. Karlton (vc) [Entry date 04/02/97]
4/1/97	7	MEMORANDUM by plaintiff Brenda Roe, plaintiff Anna Doe in support of temporary restraining order [6-1], [6-2] and preliminary injunction (vc) [Entry date 04/02/97]
4/1/97	8	DECLARATION of Mark D. Rosenbaum in support of notice of TRO motion [6-1] (vc) [Entry date 04/02/97]
4/1/97	9	EXHIBITS by plaintiff Brenda Roe, plaintiff Anna Doe in support of temporary restraining order [6-1] [6-2] and preliminary injunction (vc) [Entry date 04/02/97]
4/1/97	–	LODGED [proposed] Temporary Restraining Order by Plaintiff Brenda Roe, plaintiff Anna Doe (vc) [Entry date 04/02/97]
4/1/97	10	EX PARTE application by plaintiff Brenda Roe, plaintiff Anna Doe for leave to proceed under fictitious name (vc) [Entry date 04/02/97]

4/1/97	11	MEMORANDUM by plaintiff Brenda Roe, plaintiff Anna Doe in support of ex parte application for leave to proceed under fictitious name [10-1] (vc) [Entry date 04/02/97]
4/1/97	–	LODGED [proposed] Order granting leave to file under fictitious name by plaintiff Brenda Roe, plaintiff Anna Doe (vc) [Entry date 04/02/97]
4/1/97	17	MINUTES of Proceeding before Honorable Lawrence K. Karlton motion for temporary restraining order by plaintiffs Brenda Roe and Anna Doe [6-1] GRANTED; the order granting leave to file under fictitious name, GRANTED; further breifing [sic]: 15 days and 10 days to respond; hearing to be scheduled after briefs are filed in 25 days, by Judge Levi's courtroom clerk; court order to follow (gk) [Entry date 04/02/97]
4/1/97	19	ORDER requiring Joint Status Report before Honorable David F. Levi (cc: all counsel) (vc) [Entry date 04/04/97]
4/2/97	14	ORDER AFTER HEARING by Honorable Lawrence K. Karlton pending the hearing on the order to show cause set forth herein, pltfs' motion for TRO [10-1], is GRANTED in accordance with the provision set forth in the separate order, filed 4/1/97; pltfs' ex parte application for leave to file declaration under fictitious name and for order to proceed under fictitious names is GRANTED in accordance with the order, filed 4/1/97;

the Court DEFERS provisional certification of the class counsel for dft agreement, at hearing, to treat the restraining order as affecting all applicants benefits; OSC hearing tentatively set for 9:00 am on 5/16/97; the hearing date and time will automatically become final unless the court notifies the parties otherwise; dfts shall file and serve their brief for the hearing not later than 4/16/97; ptlf shall file their reply not later than 4/28/97; AND the aforementioned breifing [sic] schedule shall remain in effect even if the hearing is modified, unless the parties are directed otherwise by further order of the court (cc: all counsel) (gk)

4/2/97	15	ORDER TO SHOW CAUSE by Honorable Lawrence K. Karlton hearing set for 3:00pm on 4/1/97, or as soon as possible thereafter as counsel may be heard in the courtroom of the Judge Lawrence K. Karlton; this order to show cause and supporting papers must be served on dfts no later than 12:00pm on 4/1/97; any response or opposition to this OSC must be filed and personally served on pltf's counsel not later than 4/2/97 (cc: all counsel) (gk)
4/2/97	16	ORDER by Honorable Lawrence K. Karlton That all pleadings, documents and other papers in this case be filed substituting pltfs' fictitous [sic] names for the pltfs' real names and leave to file pltfs' original declarations be filed under seal (cc: all counsel) (gk)

4/2/97	18	ORDER by Honorable Lawrence K. Karlton TRO [0-0] GRANTED; pending the hearing on the order to show cause, dfts and their agents, assignees, and successors in interest are enjoined from implementing: 1) Section 11450.03(a) of the CA Welfare and Institution Code; 2) regulations promulgated pursuant to sect 11450.03(a) of the Ca Welfare and Institution Code, Including but not limited to M.P.P.E.A.S. Sec 89-110.4; and 3) All-County Letter ("ACL") 97-11 to the extent that the ACL denies standard of California AFDC or TANF benefits to members of the ptlf class or determines any AFDC or TANF benifits [sic] in whole or in part by reference to the AFDC or TANF grant any other state or territory; within ten calendar days. dfts shall issue on All-County letter to the same effect, and dfts shall provide pltfs' counsel with a copy thereof; pltfs will be permitted to proceed in this matter without posting bond or any other security (cc: all counsel) (gk)
4/9/97	20	APPLICATION for Order certifying the fact that the constitutionality of an act of congress affecting the public interest has been drawn into questions by dfts Eloise Anderson, CA Dept Social Svcs (ndd) [Entry date 04/10/97]
4/9/97	–	LODGED Order certifying the fact that the constitutionality of an Act of Congress has been drawn into questions by DFTS Eloise Anderson, CA Dept Social Svcs (ndd) [Entry date 04/10/97]

4/15/97	21	ORDER by Honorable David F. Levi: CERTIFYING the fact that the constitutionality of an act of Congress has been drawn into question (cc: all counsel) (vc)
4/16/97	–	LODGED Stipulation and Order that this action maintain as a class action (ch1)
4/16/97	22	ANSWER by defendant CA Dept Social Svcs, defendant Pete Wilson, defendant Craig Brown (ch1)
4/16/97	–	DECLARATION of Bruce Wagstaff in opposition to request for preliminary injunction [6-1], [6-2] (ch1)
4/16/97	25	MEMORANDUM by defendants Eloise Anderson, CA Dept Social Svcs, Pete Wilson, Craig Brown in opposition to application for preliminary injunction [6-1] (gk) [Entry date 04/17/97]
4/16/97	26	DECLARATION of Bruce Wagstaff in opposition to motion for preliminary injunction [6-1] (gk) [Entry date 04/17/97]
4/16/97	27	DECLARATION of Theodore Garelis in opposition to request for preliminary injunction [6-1] (gk) [Entry date 04/17/97]
4/17/97	23	APPLICATION AND ORDER by Honorable David F. Levi ORDERING that CA State Senators Ray Haynes, Rob Hurtt and Richard Rainey; CA State Assembly members Steve Baldwin, Howard Kaloogian, Bill Leonard, Tom McClintock, Bill Morrow, and Bernie Richter; the US Justice Foundation's application to file brief is GRANTED; Declaration of

		Senator Ray Haynes (cc: all counsel) (ndd)
4/17/97	24	BRIEF by Ray Haynes, Rob Hurtt, Richard Rainey, Steve Baldwin, Howard Kaloogian, Bill Leonard, Tom McClintock, Bill Morrow, Bernie Richter, US Justice Foundatio [sic] in opposition to Motion for Preliminary Injunction (ndd)
4/17/97	28	ORDER by Honorable David F. Levi: if the US wishes to file an amicus brief in this matter, the brief shall be filed by 5/5/97; it may be necessary to provide other parties with an opportunity to reply to the amicus brief in the event that such a brief is filed (cc: all counsel) (vc) [Entry date 04/18/97]
4/22/97	–	LODGED pro hac vice application and [proposed] order by pltfs Brenda Roe, Anna Doe (ljr) [Entry date 04/23/97]
4/23/97	29	STIPULATION AND ORDER by Honorable David F. Levi: that this action be maintained as a class action with a class of plts defined as: all present and future AFDC and TANF applicants and recipients who have applied or will apply for AFDC or TANF on or after 4/1/97, and who will be denied full CA AFDC or TANF benefits because they have not resided in CA for 12 consecutive months immediately preceding their application for aid; dfts consent that this court's TRO shall extend until such time as this court determines plts' pending motion for preliminary injunction, currently set to be heard on 5/16/97 (see Order for details) (cc: all counsel) (ndd)

4/24/97	30	ORDER by Honorable David F. Levi ORDERING application for pro hac vice appearance GRANTED; for pltfs Brenda Roe and Anna Doe to have attorney Martha F Davis appear pro hac vice (cc: all counsel) (vc)
4/24/97	31	NOTICE of no objection by dfts Eloise Anderson, CA Dept Social Svcs, Pete Wilson, Craig Brown to brief of Amici Curiae Haynes, Hurtt, Rainey, Baldwin, Kaloogian, Leonard, McClintock, Morrow, Richter and the US Justice Foundation [24-1] (ljr) [Entry date 04/25/97]
4/28/97	32	DECLARATION of David S. Schwartz in support of preliminary injunction [6-1] (gm) [Entry date 04/29/97]
4/28/97	33	DECLARATION of Joel F. Handler in support of preliminary injunction [6-1] (gm) [Entry date 04/29/97]
4/28/97	34	MEMORANDUM by plaintiff Brenda Roe in support of plaintiff's motion for preliminary injunction [6-1] (gm) [Entry date 04/29/97]
4/30/97	35	NOTICE OF ERRATA re Declaration of David S. Schwartz [33-1] (ndd) [Entry date 05/01/97]
5/5/97	36	SUR-REPLY by Eloise Anderson, CA Dept Social Svcs, Pete Wilson, Craig Brown regarding application for preliminary injunction [29-1] (gk) [Entry date 05/06/97]
6/4/97	37	MEMORANDUM, Opinion and Order: by Honorable David F. Levi ORDERING pltf's motion for preliminary injunction

is GRANTED; pending judgment in this action, dfts and their agents, assignees, and successors in interest are enjoined from implementing: 1) section 11450.03(a) of the CA Welfare and Institutions Code; 2) regulations promulgated pursuant to section 11450.03(a) of the CA Welfare and Institutions Code (cc: all counsel) (ch1)

6/6/97	–	LODGED Document not to be signed (gk) [Entry date 06/10/97]
7/2/97	38	STATEMENT by dfts CA Dept Social Svcs, Pete Wilson, Craig Brown, Eloise Anderson of issue on appeal (kdc) [Entry date 07/03/97]
7/2/97	39	REPRESENTATION STATEMENT by dfts Eloise Anderson, CA Dept Social Svcs, Pete Wilson, Craig Brown (kdc) [Entry date 07/03/97]
7/2/97	40	NOTICE OF APPEAL by dfts Eloise Anderson, CA Dept Social Svcs, Pete Wilson, Craig Brown from District Court 6/4/97 decision granting a preliminary injunction (fee status paid) (bb) [Entry date 07/07/97]
7/15/97	41	MAILED case information/docket fee payment notice copy of Notice of Appeal to 9th Circuit Court of Appeals copy of appeal and certified copy of docket sheet to all parties appealling [sic] the court's 6/4/97 order (gk)
7/15/97	42	CERTIFICATE OF RECORD transmitted to 9th Circuit [40-1] (notice sent) (gk)

7/18/97	43	REQUEST by plaintiffs for publication of decision (kdc) [Entry date 07/22/97]
7/21/97	44	TRANSCRIPT DESIGNATION and Ordering Form for dates 5/16/97 hearing on pltfs motion for preliminary injunction re appeal [40-1] (ch1) [Entry date 07/23/97]
7/24/97	45	NOTIFICATION by 9th Circuit of Appellate Docket Number 97-16326 app order/jgm 7/2/97 (ljr) [Entry date 07/28/97]
7/24/97	46	OPPOSITION by dfts to 'pltfs' request for publication of dicision [sic] [43-1] (ljr) [Entry date 07/28/97]
7/30/97	47	ORDER from 9th Circuit re appeal [40-1]; within 7 days of filing ntoice [sic] of appeal; parties shall make arrangements to obtain fro [sic] court reporter official transcript of proceedings in the district court; opening brief due 7/30/97; answering brief due 8/27/97; optional reply brief due within 14 days of service of answering brief (bb) [Entry date 08/01/97]
11/3/97	48	CLERK'S record on appeal transmitted to 9th Circuit original case file one volume of Clerk's Records and one expando, certified copy of docket mailed to 9th Circuit regarding appeal [40-1] (cc: all counsel) (ndd)
11/18/97	-	RECEIPT of for 1 volume of clerk's record and no transcripts by Ninth Circuit (mp) [Entry date 11/19/97]

4/22/98	49	ORDER from 9th Circuit the decision of the District Court [40-1] is AFFIRMED (kdc)
7/22/98	50	NOTICE regarding return of case file by CA 9th (gm) [Entry date 07/23/98]

Docket Entries

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BRENDA ROE, et al.,
Plaintiffs-Appellees,

v.

ELOISE ANDERSON, et al.,
Defendants-Appellants.

No. 97-16326

DATE FILINGS – PROCEEDINGS

7/21/97 DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. CADS SENT (Y/N): y. Referred to MOATT pursuant to FRAP 3.3 [97-16326] (gva)

7/21/97 Filed certificate of record on appeal N/RT filed in DC; dated 7/15/97 (Casefiles) [97-16326] (gva)

7/23/97 Filed attorney for Appellant Civil Appeals Docketing Statement served on 7/2/97 (to CONFATT) [97-16326] [97-16326] (mhf)

7/29/97 Filed order MOATT (PP) This appeal is a preliminary injunction appeal. Accordingly, 9th Cir R. 3-3 shall apply. W/in 7 days of filing the noa, the parties shall make arrangements to obtain rts. Aplt's opening brf is due 7/30/97; the answr brf is due 8/27/97 & the opt rpy brf is due w/in 14 days of serv of the answr brf. The appeal & any mtns pending at the time

brfg is completed shall be referred to the next mtns panel for disposition [97-16326] (mhf)

7/31/97 Filed Calif State Senators's motion to become amicus curiae in support of aplts w/ltr of consent by aplts only; served on 7/29/97 [MOATT per promo] [97-16326] (mhf)

8/1/97 Filed original and 15 copies Appellant Eloise Anderson, Appellant CA Dept. of S.S. Appellant Pete Wilson, Appellant Craig L. Brown opening brief (Informal: n) 31 pages and five excerpts of record in 1 volumes [sic]; served on 7/30/97 [97-16326] (ft)

8/1/97 Filed Aplts' request for oral argument & for decision by a merits panel; served on 7/30/97 [MOATT] [97-16326] (mhf)

8/4/97 Received WA Legal Foundation, U.S. Representatives John T. Doolittle & Stephen Horn, Calif Senators K. Maurice Johannessen, David G. Kelley, Tim Leslie, Bruce McPherson, & Richard L. Mountjoy; & the Allied Educational Foundation's brief in 15 copies of 29 pages; deficient: (mtn pending); served on 7/30/97 (4 copies of br/w mtn to MOATT) (recd orig consent ltrs from both ptys) [97-16326] (mhf)

8/11/97 Filed Aples' opposition to aplts req for decision by a merits panel & for oral argument; served on 8/8/97 (MOATT) [97-16326] (mhf)

8/15/97 Case released from Pre-Briefing Conference program. (ah)

8/27/97 Filed original and 15 copies appellee Brenda Roe, Anna Doe's 41 pages brief, 1 Exc. vols; served on 8/26/97 (4 copies of Brfs & Exc to MOATT) [97-16326] (mhf)

9/11/97 Rec'd errata to brief from Appellant Eloise Anderson, Appellant CA Dept. of S.S., Appellant Pete Wilson, Appellant Craig L. Brown, served 9/10/97 (RECORDS) [97-16326] (mhf)

9/15/97 Filed original and 15 copies Eloise Anderson, CA Dept. of S.S., Pete Wilson, Craig L. Brown reply brief, (Informal: n) 16 pages; served on 9/12/97 [97-16326] (mhf)

9/22/97 Calendar check performed [97-16326] (mw)

9/25/97 Filed order (Cynthia H. HALL, Melvin BRUNETTI, Sidney R. THOMAS): This preliminary injunction appeal is referred to the next available merits panel for disposition. Accordingly, the appeal shall be placed on the calendar during the week of 12/8/97 in SF, CA. Aplt's req for oral arugment [sic], California State Senators' mtn for leave to file an amicus brf & the brf of amicus WA Legal Foundation, et al. recd on 8/4/97 are referred to the merits panel. [97-16326] (mhf)

10/3/97 Received ltr dtd 9/29/97 from the US Dept of Justice stating csl Mr. Bensing is no longer works there & is not csl of rec [97-16326] (mhf)

10/14/97 Calendar materials being prepared. [97-16326] [97-16326] (uk)

10/22/97 CALENDARED: San Francisco December 11, 1997 9:00 a.m. Courtroom 1 [97-16326] (mw)

11/4/97 Filed, as of 7/21/97, certified record on appeal in 2 Vols. (total): 1 Clerks Rec -0- RTs (ORIG) & 1 Expando) [97-16326] (mhf)

11/25/97 Filed order (Deputy Clerk: eu) The merits panel to which this appeal is assigned directs that the req for oral argument be GRANTED. [97-16326] (mhf)

12/11/97 ARGUED AND SUBMITTED TO Betty B. FLETCHER, Thomas G. NELSON, CJJ: Robert H. Whaley, DJ. [97-16326] (mw)

12/15/97 Filed order (Betty B. FLETCHER, Thomas G. NELSON, Robert H. Whaley): The amicus suriae [sic] brfs of the Washington Legal Foundation, et al. & Calif State Senator Ray Haynes, et al. are ordered filed. [97-16326] (mhf)

1/28/98 FILED OPINION: AFFIRMED (Terminated on the Merits after Oral Hearing; Affirmed; Written, Signed, Published. Betty B. FLETCHER, author; Thomas G. NELSON; Robert H. Whaley.) FILED AND ENTERED JUDGMENT. [97-16326] (mhf)

2/17/98 Filed original and 4 copies Appellant Eloise Anderson, Appellant CA Dept. of S.S., Appellant Pete Wilson, Appellant Craig L. Brown petition for rehearing, (PANEL) 12 p. pages, served on 2/13/98 [97-16326] (mhf)

4/10/98 Filed order (Betty B. FLETCHER, Thomas G. NELSON, Robert H. Whaley,): The pet for rhrg is DENIED. [97-16326] (mhf)

4/17/98 MANDATE ISSUED [97-16326] (mhf)

7/27/98 Received notice from Supreme Court: petition for certiorari filed Supreme Court No. 98-97 filed on 7/21/98. [97-16326] (tsp)

10/5/98 Filed Supreme Court order (SC Date: 9/29/98) The US Justice Foundation, et al.'s mtn for leave to file a brf as amicus curiae is GRANTED. The mtn of WA Legal Foundation, et al. for leave too [sic] file abrf as amicus curiae is GRANTED.

The pet for a writ of cert is GRANTED. The brf of petitioner is to be filed w/the clk &

served upon opposing csl on or before 3:00 p.m. Tuesday, 11/10/98. The brf of respondents is to be filed w/the clk & served upon opposing csl on or before 3:00 p.m. Tuesday, 11/8/98. A rpy brf if any is to be filed w/the clk & served upon opposing csl or or [sic] before 3:00 p.m., Tuesday, 12/29/98. Rule 29.2 does not apply [97-16326] (mhf)

Proposition 165 (Excerpts)

* * *

SECTION 7. Section 11450 of the Welfare and Institutions Code is amended, to read:

11450. (a)(1) *For the first six months that aid is paid,* aid shall be paid for each needy family, which shall include all eligible brothers and sisters of each eligible applicant or recipient child and the parents of the children, but shall not include unborn children, or recipients of aid under Chapter 3 (commencing with Section 12000), qualified for aid under this chapter. In determining the amount of aid paid, the family's income exclusive of any amounts considered exempt as income or paid pursuant to subdivision (e) or Section 11453.1 shall be deducted from the sum specified in Section 11452, as adjusted ~~for cost of living increases~~ pursuant to Section 11453 ~~and paragraph (3) of subdivision (a) of Section 11450-11496~~. In no case shall the amount of aid paid for each month exceed the sum specified in the following table, as adjusted ~~for cost of living increases~~ pursuant to Section 11453~~.05 and paragraph (2) of subdivision (a) of Section 11450~~, plus any special needs, as specified in subdivision ~~(e),~~ and (f):

Number of eligible needy persons in the same home:	Maximum Aid
1	$ ~~326~~ $ 293
2	~~535~~ 482
3	~~663~~ 597
4	~~788~~ 709
5	~~899~~ 809
6	~~1,010~~ 909
7	~~1,100~~ 998
8	~~2,209~~ 1,088
9	~~1,306~~ 1,175
10	~~1,403~~ 1,263

Payments shall be made under this paragraph only when the family has not received aid under this Section for a period of twenty-four (24) consecutive months prior to the first month of aid.

~~If, when, and during such time as the United States government increases or decreases its contributions in assistance of needy children in this state above or below the amount paid on July 1, 1973, the amounts specified in the above table shall be increased or decreased by an amount equal to that increase or decrease by the United States government, provided that no increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.~~

(2) After aid has been received for any six months pursuant to paragraph (1), the maximum aid for the seventh and subsequent months shall be reduced by 15 percent of the amounts specified in paragraph (1), as adjusted in accordance with Section 11453.05. This reduction shall not be applied to families in which all parents or other caretaker relatives living in the home are age 60 or over, or are disabled and receiving

benefits pursuant to Section 12200 or Section 12300 or where the caretaker is a non-needy non-parent relative, or, where all parents in the assistance unit are under the age of 19 and regularly attending school at the high school level or lower or an equivalent vocational or technical training program.

(b) For purposes of determining the maximum aid payment as specified in subdivision (a), the family size shall not be increased for a child who was conceived while either the father or the mother of the child was receiving aid under this section, until the family has not received aid under this section for a period of twenty-four (24) consecutive months.

(c) Notwithstanding the maximum aid payments as specified in subdivision (a), families who have resided in this state for less than twelve (12) months shall be paid an amount calculated in accordance with subdivision (a), but not to exceed the maximum aid payment that could have been received from the state of prior residence.

* * *

To determine proper benefit levels under this statute the state would have to keep track of at least 66 different grant levels in other states according to the Congressional Budget Office.

There is no evidence to support the theory that California is a welfare magnet. 85% of children receiving AFDC were born in California – while only 75% of California children are natives. (1984 report of the nonpartisan Legislative Analyst).

All County Letter 97-11,
Dated February 28, 1997 (Excerpts)

STATE OF CALIFORNIA – PETE WILSON, *Governor*
HEALTH AND WELFARE AGENCY

DEPARTMENT OF SOCIAL SERVICES [Seal]
744 P Street, Sacramento, CA 95814

February 28, 1997
ALL COUNTY LETTER 97-11

REASON FOR THIS TRANSMITTAL

- [ ] State Law Change
- [X] Federal Law or Regulation Change
- [ ] Court Order
- [ ] Clarification Requested by One or More Counties
- [ ] Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: IMPLEMENTATION OF THE RELOCATION FAMILY GRANT (RFG) PAYMENT IN THE AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) PROGRAM

REFERENCES: WELFARE AND INSTITUTIONS CODE (WIC) SECTION 11450.03 MPP SECTION 89-110.4

This letter provides the instructions, information and materials County Welfare Departments (CWDs) will need to implement the regulations governing Relocation Family Grant (RFG). Each county shall implement RFG by April 1, 1997.

Regulations in MPP Section 89-110.4 implement the provisions of WIC Section 11450.03 which restrict the grant amount to either the California computed grant, or the Maximum Aid Payment (MAP) amount from the prior state of residence (plus California special needs, if applicable) whichever is less. RFG provides that when an Assistance Unit (AU) does not contain any member who has lived in California for at least 12 consecutive months, the AU's grant will be determined on the basis of RFG. RFG will continue to apply until at least one member of the AU has resided in California for 12 consecutive months. RFG applies prospectively to applications filed on or after the date RFG is effective in the county.

BACKGROUND

Implementation of RFG was initially effective on December 1, 1992. With the case of *Green v. Anderson*, filed in the Sacramento U.S. District Court on December 21, 1992, the California State Department of Social Services (CDSS) was enjoined from ongoing implementation. The *Green* case was appealed to the U.S. Supreme Court and dismissed as not ready for decision because the *Beno v. Shalala* case had previously invalidated that portion of the California Work Pays Demonstration Project waiver necessary to implement RFG. The RFG regulations now in effect, state: In accordance with the *Green v. Anderson* court order, this provision shall not be implemented until a determination by a court of appropriate jurisdiction allows such implementation.

The U.S. Department of Health and Human Services' certification of California's State Plan for Provision of

Public Assistance Under the Personal Responsibility and Work Opportunity Act of 1996 dated October 9, 1996, and effective November 26, 1996, makes Welfare and Institutions Code Section 11450.03 operative and now provides CDSS with the necessary authority to proceed with implementation of RFG.

DISCUSSION/QUESTIONS AND ANSWERS/COMPUTATION EXAMPLES

ATTACHMENT 1 lists a series of questions and answers that have been developed to assist CWDs in implementing RFG regulations. Examples for computing and determining grant amounts under RFG are also included.

TABLE OF MAXIMUM AID PAYMENT (MAP) LEVELS FOR ALL STATES

ATTACHMENT 2 provides a table of state maximum benefit amounts by family size. The table must be used to compare the California computed grant amount for which an applicant is eligible to the MAP the applicant would have been eligible to receive had he/she continued to live in his/her prior state of residence.

FORMS

ATTACHMENT 3 provides a complete listing of all necessary forms and their use in implementing RFG regulations. Availability of state-produced stock for the English and, where appropriate, the Spanish version of the form is indicated. Camera-ready copies of the forms

may be obtained by calling the Forms Management or Language Services Bureau as indicated below in the contact portion of this letter.

ATTACHMENT 4 provides a reproducible copy of TEMP 2136 entitled Relocation Family Grant – Supplemental Statement of Facts. Stock of the TEMP 2136 may be ordered from the CDSS Warehouse upon your receipt of the Notice of Change Form (GEN 127) that is issued when stock is available. The final TEMP 2136 will be printed back to back in English and Spanish.

NOTICES OF ACTION (NOAs) and NA FORMS

ATTACHMENT 5A provides two Notices of Action (NOAs) for use as the Approval and Change actions. Copies of the NOA messages in Cambodian, Chinese, Spanish and Vietnamese may be obtained upon request through the Language Services Bureau approximately 30 days from the date of this letter.

ATTACHMENT 5B provides copies of the NA forms in the Asian languages only may be obtained trough the Language Services Bureau. Spanish versions of the NA forms are available through the Forms Management Bureau.

AUTOMATED TRACKING

Enhancements to MEDS for purposes of RFG online tracking are underway. Programming, however, may not be completed by the effective date. Until such time that online tracking is available, all RFG cases will need to be flagged manually. Identifying information must consist of

the date the applicant moved to California, and name of the recipients prior state of residence.

CA 215 – NOTIFICATION OF INTERCOUNTY TRANSFER

When transferring an RFG case to another county, annotate on the Notification of Intercounty Transfer (CA 215) that the RFG rules apply, the name of the prior state and date that the RFG period expires.

CA 30 – AFDC BUDGET WORKSHEET

On Line C of the CA 30, the prior state's aid payment plus California's special needs payment must be figured in the comparison of the aid payment calculation.

CONTACTS

If you have any questions regarding this letter or need additional information, please contact the following staff:

Subject	Contact person	Telephone
Regulations/ Implementation	Alison Garcia	(916)654-0989 or CALNET 464-0989
Forms	Elizabeth Allred	(916)657-3350 or CALNET 437-3350
NOAs/NA Forms	Pam Kian	(916)654-1801 or CALNET 464-1801
Camera-ready	Forms	(916)657-1907 or

Copies English and Spanish	Management	CALNET 437-1907
Translations	Language Services	(916)654-1505 or CALNET 434-1305

Sincerely,

/s/ Bruce Wagstaff
BRUCE WAGSTAFF
Deputy Director
Welfare Programs Division

Attachments

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* * *

Attachment 2 – MAP Table from Other States

AFDC TABLE OF STATE MAXIMUM BENEFIT AMOUNTS BY FAMILY SIZE

STATE	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Alabama	111	137	164	194	225	252	287	315	344	372	400	428	457	485	513	541	541	541
Alaska	514	821	923	1025	1127	1229	1331	1433	1535	1637	1739	1841	1943	2045	2147	2249	2351	2453
Arizona	204	275	347	418	489	561	632	703	775	846	917	988	1060	1131	1202	1274	1346	1418
Arkansas	81	162	204	247	288	331	373	415	457	457	457	457	457	457	457	457	457	457
Colorado	214	280	356	432	512	590	652	715	778	840	902	959	1016	1072	1129	1186	1243	1308
Connecticut	358	473	581	683	781	884	987	1102	1193	1304	1359	1489	1527	1643	1744	1799	1882	1966
Delaware	201	270	338	407	475	544	612	681	750	819	888	957	1026	1095	1164	1233	1302	1371
Dist. of Col	265	330	420	513	591	695	797	881	968	1053	1111	1194	1248	1316	1366	1434	1574	1618
Florida	180	241	303	364	426	487	549	610	671	733	795	857	918	981	1043	1105	1167	1229
Georgia	155	235	280	330	378	410	444	470	496	530	568	568	568	568	568	568	568	568
Hawaii	418	565	712	859	1006	1153	1300	1445	1593	1740	1887	2034	2181	2328	2475	2621	2767	2913
Idaho	205	251	317	382	448	513	579	645	710	776	841	906	971	1036	1101	1166	1231	1296
Illinois	212	283	382	424	495	550	589	624	655	689	725	761	801	842	886	931	979	1030
Indiana	139	229	286	346	405	483	522	580	~~699~~	697	762	827	892	957	1022	1087	1152	1217
Iowa	183	361	426	495	648	610	670	731	791	865	952	1039	1126	1213	1300	1387	1474	1561
Kansas	241	326	403	471	532	593	664	715	776	837	898	959	1020	1081	1142	1203	1264	1325
Kentucky	196	225	262	328	383	432	482	482	482	482	482	482	482	482	482	482	482	482
Louisiana	72	138	190	234	277	316	352	301	427	482	501	540	580	620	662	707	741	789
Maine	108	312	418	526	632	730	845	953	1060	1167	1274	1381	1489	1595	1702	1805	1918	2023
Maryland	165	202	373	450	521	573	645	709	766	826	886	946	1004	1063	1124	1184	1282	1342
Massachusetts	352	466	579	666	760	854	945	1037	1128	1220	1315	1410	1505	1600	1695	1790	1885	1980
Michigan	276	371	459	563	659	792	853	944	1020	1096	1172	1248	1324	1400	1476	1552	1628	1704
Minnesota	250	437	532	621	697	773	850	916	980	1035	1089	1142	1195	1249	1301	1354	1407	1450
Mississippi	60	95	120	144	168	192	215	240	264	288	312	336	360	384	408	432	456	480
Missouri	138	234	292	342	386	431	474	514	554	595	635	675	715	755	795	835	875	915
Montana	252	338	425	511	597	684	771	857	900	941	977	1013	1046	1076	1106	1132	1132	1132
Nebraska	222	293	364	435	506	577	648	719	790	861	932	1003	1074	1145	1216	1287	1358	1429
Nevada	229	288	348	408	468	527	587	647	706	766	826	885	945	1005	1065	1124	1184	1244
New Hampshire	414	481	550	613	673	754	817	910	952	1039	1126	1198	1265	1332	1399	1465	1533	1600
New Jersey	162	322	424	488	552	616	677	728	778	828	878	928	978	1028	1078	1128	1178	1228
New Mexico	227	304	381	458	534	611	688	764	841	918	995	1071	1148	1225	1302	1331	1360	1389
New York	327	429	524	619	716	787	901	979	1039	1059	1159	1219	1279	1339	1399	1459	1519	1579
North Carolina	181	236	272	297	324	349	373	386	406	430	448	473	496	521	546	571	596	621
North Dakota	223	333	431	517	591	653	702	739	776	813	850	887	924	961	998	1035	1072	1109
Ohio	203	279	341	421	493	548	613	680	746	816	881	949	1016	1082	1150	1234	1318	1402
Oklahoma	190	238	307	380	445	509	574	631	685	685	685	685	685	685	685	685	685	685
Oregon	310	395	460	565	680	785	840	925	985	1090	1195	1300	1405	1510	1615	1720	1825	1930
Pennsylvania	215	330	421	514	607	687	770	853	935	1019	1102	1185	1268	1351	1434	1517	1600	1683
Rhode Island	327	451	566	636	714	805	886	978	1050	1140	1220	1301	1383	1469	1550	1635	1722	1808
South Carolina	118	159	200	241	281	322	363	403	444	484	525	565	606	645	687	727	768	808
South Dakota	304	380	430	478	526	578	627	675	724	773	822	872	920	969	1018	1067	1115	1164
Tennessee	95	142	185	226	264	305	345	386	425	467	508	549	589	630	670	711	750	790
Texas	78	163	188	226	251	288	313	356	382	425	451	494	520	563	589	632	675	713
Utah	246	342	425	498	567	625	654	685	717	747	778	809	840	870	902	933	965	994
Vermont	445	553	656	738	827	884	953	1069	1148	1228	1307	1387	1465	1546	1625	1705	1784	1864
Virginia	174	257	322	388	457	509	570	638	692	754	815	876	937	998	1059	1120	1181	1242
Washington	349	440	546	642	740	841	971	1075	1075	1075	1075	1075	1075	1075	1075	1075	1075	1075
West Virginia	149	209	261	328	376	437	486	509	509	509	509	509	509	509	509	509	509	509
Wisconsin	246	440	518	618	709	766	820	878	921	943	963	983	1003	1023	1043	1063	1083	1103
Wyoming	195	320	360	390	450	510	575	640	700	765	777	789	801	813	825	837	849	861

2/19/97

BEST AVAILABLE COPY

Proposition 165 Petition Materials (Excerpts)

[Seal] GOVERNOR PETE WILSON

DEAR MR SHAPIRO:

California government spending is on autopilot and welfare spending is out of control.

Welfare costs are growing at four times the rate of our population and combined spending for welfare and related health services now consumes more of our state budget than anything except education.

Unless we control welfare costs *now,* California faces the virtual certainty of continued escalating spending.

Already California, with only 12% of the nation's population, pays 26% of the welfare costs paid by all states nationwide!

This threatens higher taxes *and* drastic cuts in education and other vital state programs.

I have enclosed an official petition to place a constitutional amendment on the November ballot which will help prevent this disaster. It is called the Taxpayers Protection Act.

Please sign this important petition and return it in the postage paid envelope.

If there are other registered voters immediately available, please ask them to sign the petition also. But be certain to return your petition within 24 hours even if your signature is the only one.

The Taxpayers Protection Act will:

- ✓ **STOP** out of state welfare recipients from moving to California just to increase their grants.
- ✓ **ENCOURAGE** able bodied adult welfare recipients to find jobs, and to keep high school age parents in school.
- ✓ **DISCOURAGE** unwed welfare mothers from having additional children by placing a cap on the size of a family grant.
- ✓ **FORCE** the state government to pass a budget on time by docking the pay of the Governor and the legislature for each day they are late.
- ✓ **REQUIRE** welfare mothers to identify the fathers of their children so that dead-beat fathers pay for their children instead of the taxpayers.
- ✓ **PERMIT** the Governor to take effective action to *cut* the budget in emergencies.

Without your immediate help we will be unable to qualify this important initiative for the ballot.

And, if you possibly can, include a contribution of $3, $5 or even $10 to help print and distribute petitions. But the signatures are the most important, so please return your signed petition today.

How much will it cost you in higher taxes if the Taxpayers Protection Act fails? I believe that it will be hundreds of times more than $10.

Please return you signed petition today. Our future depends upon it. Remember, even one signature will really help.

With greatest urgency,

/s/ Pete Wilson
Pete Wilson
Governor of California

P.S. If you have already signed a Taxpayers Protection Act Petition do not sign this one in spaces 1-6. Do collect signatures from other voters in your household, your neighbors, friends or relatives and do fill out and sign the Declaration of Circulation. Even if you can only get one more signature today please send back your petition in the postage-paid reply envelope. And, please include a contribution of $3, $5 or $10 to help us print and distribute more petitions. Thank you.

Proposition 165 Campaign Materials (Excerpts)

CALIFORNIA The Budget/Welfare Reform Act of 1992 TAXPAYERS

Governor Pete Wilson, Chairman

KEY PROVISIONS OF PROPOSITION 165

Proposition 165 is a proposed constitutional amendment which will be submitted to the people of California on the November 1992 ballot. The initiative makes it easier for government to cut spending by reforming the budget process and eliminating automatic increases for welfare and other government spending except for education. Specifically, the measure:

* *DOCKS PAY FOR LATE BUDGET* – Requires legislators and the Governor to pass a budget by June 15 or forfeit their salary and reimbursement of expenses every day they are late;

* *HELPS END BUDGET IMPASSE* – If the budget is not enacted by July 1, the Governor can declare a fiscal emergency and propose spending reductions (except education) to bring the budget into balance. If the legislature does not act, the cuts would take effect after 30 days;

* *HELPS KEEP BUDGET IN BALANCE* – If spending exceeds revenues mid-year, the Governor can propose the necessary reductions (except education) to put the state back on track. If the legislature does not act, the cuts would take effect after 30 days;

* *MAKES INITIAL BUDGET PROPOSAL MORE ACCURATE* – Changes deadline for Governor to submit a budget from January 10 to March 1, giving the legislature a more accurate, timely budget proposal;

* *LIFTS LOCK ON REQUIRED SPENDING FOR STATE EMPLOYEES* – During a fiscal emergency, the governor may reduce state employee compensation by up to five percent if no contracts are in place;

* *LIMITS WELFARE PAYMENTS TO NEWCOMERS* – To reduce any incentive to come to California solely for higher welfare benefits, and to keep welfare costs under control, newcomers to California would receive the same level of grant they would have received in their home state;

* *REFORMS WELFARE SO THERE'S MORE INCENTIVE TO WORK* – Makes incremental cuts in welfare to encourage people to work. First, the grant is reduced ten percent, and then fifteen percent after six months for able-bodied welfare recipients. With additional food stamps, the net reduction in welfare benefits is 11 percent.

* *ENCOURAGES FAMILIES TO STAY TOGETHER* – Encourages teen mothers to stay at home when possible and refrain from setting up new welfare households until they have finished school and can support themselves.

* *ENCOURAGES TEEN PARENTS TO STAY IN SCHOOL* – Provides a $50 monthly cash benefit, child care, transportation and support for teen mothers on welfare who stay in school; reduces grant by $50 each month if they drop out.

* *DISCOURAGES MORE CHILDREN WHILE ON WELFARE* – To discourage people from having more children while on public aid, welfare recipients will not receive cash bonuses when they have more children.

* *SAVES MILLIONS OF DOLLARS AND REDUCES NEED TO RAISE TAXES OR CUT EDUCATION* – By reducing welfare costs and discouraging more people from going on welfare, the state will save $640 million in the first year alone, and be in a much better position to balance future budgets without new taxes, and without cutting education and preventive programs for children.

# # #

Proposition 165 Ballot Pamphlet (Excerpts)

Budget Process. Welfare.
Procedural and Substantive Changes.
Initiative Constitutional Amendment and Statute.

Argument in favor of Proposition 165

California's budget is out of control!

THIS YEAR CALIFORNIA WAS FORCED TO ISSUE IOU'S, NOT BECAUSE IT'S TAXING TOO LITTLE BUT BECAUSE IT'S SPENDING TOO MUCH – TOO MUCH ON THE WRONG THINGS. "Automatic" increases in spending for public assistance crowd out funding for schools, lowering California's bond rating, costing taxpayers millions.

By the year 2000, welfare related spending will crowd out colleges, prisons, and every function except schools. And without huge annual tax increases, it will even hurt schools.

Higher taxes are driving jobs and taxpayers out of state. WITHOUT IMMEDIATE REFORM, CALIFORNIA WILL HAVE MORE TAX USERS THAN TAXPAYERS BY 1993.

Welfare-related spending is now our second largest budget item and keeps climbing. Welfare rolls are growing four times faster than our population.

CALIFORNIA HAS 12% OF AMERICA'S POPULATION, BUT PAYS 26% OF WELFARE COSTS PAID BY ALL STATES NATIONWIDE.

Why? California is one of the most generous welfare states in America. WE PAY WELFARE RECIPIENTS *NEARLY TWICE* THE AVERAGE PAID BY OTHER

LARGE STATES. Between 1978 and 1988, CALIFORNIA WELFARE PAYMENTS GREW NEARLY TWICE AS FAST AS REAL FAMILY INCOME.

Is that fair to *your* family? How much more in taxes can you afford?

Opponents claim welfare payments are still too low but fail to include food stamps, health care, and benefits in their analysis. THE AVERAGE WELFARE RECIPIENT WOULD NEED A JOB PAYING $1,400 PER MONTH TO EARN MORE WORKING THAN STAYING ON WELFARE. No wonder people move to California to collect welfare.

Automatic welfare increases aren't the only problem. Budget stalemates and legislators who can't say no cost Californians billions.

Proposition 165 reforms the budget process:

- Docks Governor's and Legislators' pay when they fail to balance the budget on time.
- Gives our Governor similar "last resort" budget-balancing tools governors in 44 other states already have. THE GOVERNOR CAN'T RAISE TAXES OR CUT EDUCATION. ALL HIS ACTIONS ARE SUBJECT TO LEGISLATIVE OVERRIDE.

Proposition 165 reforms welfare:

- New state residents would receive no more in welfare here than in their home state, to end California's status as a welfare magnet.
- Cash grants would be lowered 10%, and an additional 15% for long-term able-bodied

recipients, still leaving California as one of the most generous states in the nation, but reducing incentive to stay on welfare. The greater reduction for long-term able-bodied recipients MOVES WELFARE BACK TOWARDS ITS ORIGINAL PURPOSE AS A *TEMPORARY SAFETY NET*, NOT A PERMANENT WAY OF LIFE. When increased food stamps are considered, welfare recipients could replace their entire cut by working just 6.4 hours per week.

- Recipients will no longer receive additional cash for having additional children after going on welfare, although they will receive medical benefits and food stamps for the additional child.
- PROPOSITION 165 PROTECTS EDUCATION AND OUR KIDS' FUTURE.

Join the California Taxpayers Association, Howard Jarvis Taxpayers Association, California Chamber of Commerce, and over one million Californians who've given their name to support Proposition 165.

PETE WILSON
Governor
State of California

JOEL FOX
President
Howard Jarvis Taxpayers Association

MAUREEN DIMARCO
Secretary of Child Development and Education
State of California

Rebuttal to Argument in Favor of Proposition 165

We usually learn the hidden consequences of ballot measures after it's too late. We can't let that happen with 165.

UNPRECEDENTED POWERS

Promoters say the legislature can overrule the Governor's new powers. Actually, Section 5, paragraph 12.5 says the Governor *must personally approve* any override attempt.

Promoters say 44 other Governors have the same power: Actually, no Governor has 165's unrestrained ability to act without legislative or court review.

Promoters say 165 won't hurt education. This year the Governor tried to cut school funding $2.3 billion. Under Section 5, paragraph 12.2 no one could stop any Governor from making such cuts.

NOT REFORM

Promoters say 165 reforms welfare. But real reform would include job creation, training and child care and would deal with welfare fraud. 165 doesn't.

Promoters say families on welfare receive the equivalent of $1,400 monthly. Actually, the average mother with two young children gets $663 a month and $142 in food stamps.

What promoters don't tell you is that 165 also raises health costs for working families and aged, blind and disabled, makes it tougher for elderly to avoid premature

placement in nursing homes and cuts foster home funding.

NOT THE ANSWER

165 Doesn't answer our fiscal crisis. Most 165 cuts come from poor families with young children (AFDC). That entire program accounts for just 6% of the state budget.

TELL THE POLITICIANS YOU DON'T LIKE THE HIDDEN CONSEQUENCES IN THEIR BALLOT MEASURE.

NO ON 165

MARILYN ERICKSEN
Executive Director,
California Child, Youth & Family Coalition

GLORIA BLACKWELL
President,
California State Parent Teacher Association (PTA)

GORDON A. KOOLMAN
President,
California Association of Highway Patrolmen

Argument Against Proposition 165

Don't be misled.

Proposition 165 will NOT do what its backers claim.

They claim 165 is welfare "reform". But it really is a giant step backward that inflicts new hardships on our most vulnerable children, elderly and disabled.

They claim 165 is budget "reform". But buried within 165's long, complex provisions is a constitutional power grab giving this or any future Governor dangerous and unprecedented new powers.

ATTACKING POOR CHILDREN, THE ELDERLY AND DISABLED

Proposition 165 attempts to exploit public concern over welfare by including a few provisions designed to appeal to voters. But these provisions fail to mask 165's constitutional power grab and punitive attacks on those who need help the most.

Read 165 carefully. Underneath all the rhetoric, you'll find that:

- 165 WON'T PUT WELFARE RECIPIENTS TO WORK. 165 imposes no new work requirement on welfare recipients and offers them no new help in getting a job. It simply punishes everyone who can't find work. No child care for single mothers. No job training or placement. No jobs. Just a 25% cut.
- 165 HURTS THOSE WHO NEED HELP THE MOST. 165 eliminates cost of living increases for foster homes, and for needy aged, blind and disabled Californians who have nowhere else to turn. And it makes access to Medi-Cal more difficult for the working poor and seniors who need nursing home care.
- 165 WON'T REDUCE WELFARE FRAUD AND WASTE. Look for yourself. You will not find a single provision eliminating fraud or making welfare administration more efficient.

HOW THE POWER GRAB WORKS

165 allows the Governor to unilaterally declare emergencies under conditions of his own making.

Under 165, FISCAL EMERGENCIES WOULD NOT JUST HAPPEN, THEY COULD BE MADE TO HAPPEN. If the Governor's own political appointees overestimate revenues by just 3% the Governor can declare an emergency. Or if the Governor prevents the state budget from being adopted on time by refusing to work toward consensus, he can declare an emergency.

After declaring an emergency, THE GOVERNOR CAN REDUCE VIRTUALLY *ANY* STATE SUPPORTED SERVICE BY *ANY* AMOUNT.

Every service not protected by the constitution is at risk:

- Enforcement of laws protecting consumers, the environment and workers on the job.
- Higher education and schools beyond the minimum Proposition 98 guarantee.
- Fighting AIDS and providing essential health services.
- Homecare and other services for the disabled and elderly.
- Funds to local government for trial courts, health care and children's services.

Once funding is cut, NEITHER THE LEGISLATURE NOR THE COURTS CAN OVERTURN THE GOVERNOR. Under 165 the Governor's action can be overturned *only if the Governor agrees.*

A Governor intent on controlling the state could coerce the legislature, regulatory agencies and even local governments into submission merely by *threatening* to use the arbitrary, unrestrained powers granted by Proposition 165.

165 OVERTURNS THE CONSTITUTIONAL CHECKS AND BALANCES WE RELY ON TO PROTECT OUR FREEDOM.

NO ONE PERSON SHOULD HAVE THIS MUCH UNRESTRAINED POWER, EVER.

PLEASE JOIN WITH US TO DEFEAT THIS DANGEROUS AND HURTFUL POWER GRAB.

VOTE NO ON PROPOSITION 165.

ROBYN C. PRUDHOMME-BAUER
President,
League of Women Voters of California

REVEREND LES L. SAUER
Executive Committee, California
Council of Churches

JOHN F. ALLARD
Board Member,
National Council of Senior Citizens

Rebuttal to Argument Against Proposition 165

Consider who's opposing Proposition 165; public employee unions, the welfare lobby and special interests who benefit from higher taxes and more government spending.

They're not concerned with your rights as taxpayers.

They're saying "Be happy with the way welfare works now."

Some are even suing our state to double California's already very high welfare grant.

They're not concerned with power grabs – they're really concerned about their own spending programs.

PROP 165 LEAVES ALL CONSTITUTIONAL CHECKS AND BALANCES IN PLACE:

- Gives Governor "last resort" budget-balancing authority similar to governors in 44 other states, and then only if legislators fail to balance the budget.
- EXEMPTS SCHOOLS FROM CUTS.
- GIVES GOVERNOR *NO* POWER TO RAISE TAXES.
- LEGISLATURE *CAN* OVERRIDE HIM.
- THE COURTS' POWERS REMAIN UNCHANGED.

PROP 165:

- Restructures the system so it pays to get a job rather than just collect welfare.
- Complements *already existing* job training and child care programs for welfare mothers.
- Offers teenage welfare mothers child care and cash incentives to stay in school
- Has *no* effect on costs or access to health care for poor children, elderly and disabled.

OPPONENTS CLAIM A 25% WELFARE CUT, BUT WHEN ADDITIONAL FOOD STAMPS ARE CONSIDERED, THE CUT IS ONLY 11% – AND WE'LL STILL BE PAYING AMONG THE HIGHEST GRANTS IN AMERICA.

Prop 165 stops automatic increases in spending and taxes, avoids Washington-style deficits for California, protects education, and saves millions by forcing politicians to pass a budget on time, or permanently forfeit their salary every day they're late.

RUSSELL S. GOULD
Secretary of Health and Welfare
State of California

INGRID AZVEDO
Former Chair
Federal Council on Aging

JOHN A. ARGUELLES
Retired Justice
California Supreme Court

Proposition 165 Waiver Request (Excerpts)

[SEAL]
PETE WILSON
GOVERNOR

TELEPHONE [Omitted]
FAX [Omitted]

STATE OF CALIFORNIA
HEALTH AND WELFARE AGENCY
1600 NINTH STREET, ROOM
SACRAMENTO 95814

May 19, 1992

Jo Anne Barnhart, Assistant Secretary
Administration for Children and Families
U.S. Department of Health and Human Services
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

Dear Ms. Barnhart:

Attached is California's Welfare Reform package demonstration project proposal pursuant to Section 1315 of Title 42 of the United States Code which has been the topic of discussion during our meetings this past winter. Due to our anticipation that State legislation will be enacted shortly in support of the provisions, we request that the package be reviewed and any identified issues be resolved as soon as possible. In the meantime, we will continue to work with members of your staff on details of the evaluation design.

This proposal is a historic attempt to alter the policy underpinnings of California's welfare program. Proposal components are aimed at providing work incentives, promoting individual responsibility, supporting/reinforcing the policy of family preservation, and addressing disturbing trends relates [sic] to teen pregnancy and school dropouts. We believe all of these problems significantly contribute to the growing phenomenon of government

dependency. If successful, the proposal will help hundreds of thousands of Californians to reduce or eliminate their dependence on governmental support. California's welfare population is growing at an alarming rate with increases of more than ten percent per year. Less than eight percent of AFDC recipients have earned income. The current AFDC program has very few built-in incentives to work and, in most cases, works as a disincentive for able-bodied recipients to find and maintain employment. The result is that welfare recipients are relegated to a life style dependent on government support, without opportunity to realize their true potential and become productive contributing members of our society. The proposed changes will enhance and motivate these people to become self-supporting and to break the cycle of dependency. This will result in tremendous personal benefit to these individuals and their families and also address several very perplexing State/national economic societal problems.

We recognize that financial incentives to work may not be enough for some recipients, especially those who lack job search skills and those who are simply having trouble finding work on their own. To address this, we are also proposing a new JOBS component to provide voluntary up-front job club workshops to recipients in their first six months on aid who are not being served by GAIN. As you know, job club workshops have been proven to be cost-effective in the past and we believe that they will prove extremely beneficial when combined with significant financial incentives to work. We believe that the proposed job clubs will be more beneficial on a solely volunteer basis. The individuals subject to the grant

reductions under this proposal will be highly motivated to increase earned income through work and will volunteer. It is under this basic concept that we are requesting waiver of the good cause, conciliation and sanction sections of the Federal laws and regulations for these job club workshops. We intend that these workshops be a strong, positive support of our work incentives. We also believe that our current GAIN (JOBS) program can be better tailored to serve clients in the new more work-oriented AFDC environment that will result from our proposal. Thus, we are currently exploring several options for redesigning GAIN to make it more work-oriented.

CALIFORNIA RELOCATION GRANT

The proposal reduces the incentive for families to migrate to California for the purpose of obtaining higher aid payments. This would be accomplished by limiting (for a 12-month period) the grant level for families moving to California to the lesser of California's grant level or the MAP of the State of previous residence.

MAXIMUM FAMILY GRANT

The proposal encourages family responsibility by capping the MAP to exclude any children conceived while the mother or father was receiving aid. It is important to note that such children would be counted in determining the appropriate MBSAC for the family and would be covered by Medicaid.

TRANSITIONAL GRANT

As indicated above, the proposal would reduce a family's MAP after six months on aid by 15 percent. We believe that it is important to provide six months of financial assistance at the higher transitional level in order to allow able-bodied adult recipients to overcome temporary economic and family setbacks.

To facilitate expeditious review of the proposal, we have separately addressed each proposal component. If you have any concerns about any of the concepts, we would like to discuss them with you as soon as possible in order to assure a rapid approval date. Questions should be directed to me at (916) 654-3345, or John Healy, Interim Director of the Department of Social Services, at (916) 657-2598. Questions concerning Medicaid should be directed to John Rodriguez, Chief Deputy Director of Programs, Department of Health Services at (916) 654-0391.

Sincerely,

/s/ Russell S. Gould
RUSSELL S. GOULD
Secretary

Attachments

cc: Ms. Christine Nye, Director
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6325 Security Blvd.
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Ms. Mary Kennison, Director
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Health Care Financing Administration
2430 Park Meadows Building
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Mr. Lawrence L. McDonough
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Health Care Financing Administration
75 Hawthorne Street, Fourth Floor
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50 United Nations Plaza, Room 450
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* * *

CALIFORNIA RELOCATION GRANT

PROPOSAL:

- Families moving to California will receive grants, for their first 12 months in California, no larger than the maximum aid payment they would have received/did receive in the state from which they moved.
- If the family's state of origin had higher grant levels than California has, then the grant received in California will not exceed California's grant level.
- Families living in California for more than 12 months are not affected.
- The amount of time spent in California while not on aid counts against the 12-month timeframe.

OBJECTIVE:

- Reduce the incentive for migration of families to California for the purpose of obtaining higher aid payments.

HYPOTHESIS:

- If California's grant levels for incoming applicants are changed to the lesser of California's computed grant amount or the maximum aid payment of the State of prior residence, the rate of relocation into California will be reduced.

* * *

California Relocation Grant

BACKGROUND

Current law provides for one grant amount per family size for all recipients regardless of how long the recipient has resided in the state.

PROBLEM

Approximately 7% (50,000 cases) of California's AFDC caseload lived in another state within the previous twelve months prior to their application for aid in this state. About half (25,000 cases) were receiving AFDC in the prior state of residence. About 25% of the migrating recipients come from neighboring states (Washington, Oregon, Nevada, and Arizona) and 36% come from states that make up the nation's ten lowest grant payment states.

PROPOSAL

Limit the MAP of families moving to California to the lesser of California's grant level or the MAP of the prior state of residence until the family has been in the state for a twelve-month period. This will reduce the California MAP to levels consistent with the aid which would have been received in the state of prior residence and will reduce the incentive to relocate in California solely for the purpose of receiving an increased AFDC grant.

CASELOAD & COST/SAVINGS

Seven percent of all new applicant cases in California each month, or almost 2,300 cases, will receive a lower grant for 6 months. For 1992-93, this equates to an average 9,000 monthly cases that will be affected.

Total FY 1992/93 *savings* (AFDC grant savings) $25,811,000 less admin cost

December 19, 1991, Legislative Analyst
Report To Assemblymember Quackenbush

Joint Legislative Budget Committee

[Committee Members' Names Omitted In Printing]

GOVERNMENT CODE SECTIONS 9140-9143

CALIFORNIA LEGISLATURE

LEGISLATIVE ANALYST
ELIZABETH G. HILL

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December 19, 1991

Hon. Charles W. Quackenbush
Assembly Member, 22nd District
Room 2111, State Capitol
Sacramento, California 95814

Dear Assembly Member Chuck Quackenbush:

This letter is in response to your request that we prepare a fiscal analysis of your AB 671. Specifically, this bill would require that any persons applying for public assistance in California, and who received public assistance as a resident of another state, shall receive a grant that is no more than the grant they would have received in their state of origin during the first six months of residence in California. This proposal to create a "two-tier" grant system would apply to various health and welfare programs in California, primarily Aid to Families with Dependent Children (AFDC), Supplemental Security Income/State Supplementary Program (SSI/SSP), General Assistance (GA), and Medi-Cal.

Our response is divided into three sections. The first section provides some background on the programs affected by your two-tier grant proposal, the second section discusses its fiscal effects, and the third section discusses some of the public policy issues that might affect the proposal.

While AB 671 would apply to numerous health and welfare programs, we are limiting our fiscal analysis to the major programs – AFDC, SSI/SSP, GA, *and* Medi-Cal.

BACKGROUND

Current law establishes AFDC and SSI/SSP grant levels by family size (AFDC) and category of disability (SSI/SSP), and specifies that those grants must be reduced to reflect income. The cost is shared by the federal and state governments and, for the AFDC Program, the counties. Grants are not adjusted based on (1) how long a recipient has resided in California or (2) whether a recipient had received public assistance in another state.

The GA payments are established by each county and are funded entirely by county funds. While each county uses somewhat different criteria for establishing their GA grant, most large counties set their grant at approximately the AFDC grant for a comparable family size (most GA cases have only one person).

Two-tier proposals have surfaced in other states; generally where the AFDC or GA grants are high compared to surrounding states. The concern driving these policy proposals is that people receiving assistance in low-benefit states are encouraged to move to high-benefit states in order to take advantage of the higher benefit. In effect,

the high-benefit state becomes a so-called "welfare magnet." Two-tier grants are thought to mitigate migration incentives.

FISCAL EFFECTS OF THE PROPOSAL

In this section we discuss the fiscal effects of your proposal. Key to understanding the fiscal effects, however, is development of accurate estimates of the affected caseload.

How Large is the Affected Population?

Estimating the caseload that would be subject to your proposal is difficult for two reasons. First, the Department of Social Services (DSS) does not collect information regularly on the former residency of welfare applicants, and county welfare offices are not required to identify in their records whether the recipient came from another state. Second, there is no federal or other interstate data base that indicates whether applicants for public assistance were on assistance in their former state.

Academic Studies. Our review of the academic literature indicates that some studies have identified movement between states by low-income families in order to take advantage of higher public assistance benefits. The amount of movement identified in these studies generally is small. These findings, however, are subject to some criticism based on the statistical methods and data used in the studies. We also note that questions can be raised about whether movers are actually better off in the high-

grant states since these states generally also have a higher cost of living.

State Surveys. During the decade of the 1980s, three states were sufficiently concerned about welfare migration that they commissioned studies in order to determine the amount of movement to their states due to high public assistance grants.

- *Michigan.* In 1981, Michigan surveyed all individuals that applied for AFDC and GA during the month of August. Michigan's study concluded that about 3.4 percent of all applicants *for both GA and AFDC* may have migrated in order to obtain higher aid payments.

- *Minnesota.* The Minnesota Legislative Auditor studied welfare migration using surveys taken in August and November of 1986. Using the same criteria as the Michigan study, they found that about 6.4 percent of applicants exhibited a "high probability" of having moved to Minnesota in order to receive higher aid payments.

- *Wisconsin.* The Wisconsin Magnet Study Committee surveyed applicants for public assistance in June 1986. Using a different methodology than Michigan and Minnesota, they found that about 7.2 percent of applicants were "most likely" to have moved to Wisconsin in order to receive higher aid.

California-Specific Data. The above surveys were aimed at determining the behavioral impact of interstate grant disparities. For purposes of estimating the fiscal impact of AB 671, however, we do not need to know why people migrated, but only that they did migrate and were on assistance in their former state. The state does have

some information on these factors. For instance, the DSS, in their April 1990 AFDC "characteristics" survey, reports data from their sample regarding the residence of recipients. Based on those case records that included former residency and aid status, we estimate that about 4.4 percent of California's April 1990 AFDC caseload was comprised of recent migrants who had been on assistance in their former state. Given that counties will approve about 23,700 AFDC cases per month during 1991-92, this means that 1,043 cases per month would be affected by your proposal. Over the course of a year, about 75,000 case months (new and continuing cases) in the AFDC Program would be affected.

It is important to understand that this estimate is subject to significant uncertainty. For instance, the estimate assumes that all new arrivals apply for AFDC immediately upon arrival in California (therefore experiencing a full six months of grant reduction). This assumption, therefore, leads to an *overstatement* of the caseload affected by your proposal. On the other hand, the estimate assumes no reduction in cases due to the effect of the proposal on deterring migration. This assumption results in an *understatement* of the caseload impact.

Fiscal Analysis

AFDC and GA Programs

Grant Savings. If grants for new arrivals are reduced for a full six months each, we estimate that this proposal would result in full-year AFDC benefit savings of about $20 million ($9.5 million General Fund, $10

million federal funds, and $500,000 county funds) annually. These estimates assume an average grant differential estimated by the DSS using information from the April 1990 characteristics survey. This estimate, however, is based on a very small sample. Actual savings would vary depending on the actual state of origin of new arrivals. Additionally, these estimates are sensitive to the average number of months for which new arrivals receive reduced grants (as mentioned above, we assumed six months of reduced grant for each recipient subject to your proposal). For example, if grants for new arrivals are reduced for an average of three months, the estimated AFDC General Fund savings would be about $4.8 million annually.

This proposal also would result in unknown annual county savings, possibly more than $5 million, for GA programs. This estimate is subject to great uncertainty because we have no data with which to determine either (1) how many GA applicants are new arrivals or (2) how county GA grants compare to those in other states. Our estimate assumes that GA recipients have the same mobility as AFDC recipients and that GA grants are reduced by $50 per month for a full six months. California's average monthly GA caseload was about 110,000 cases per month in 1990-91 and was comprised primarily of single adults. The average GA grant in 1990-91 was about $307 per month per case.

Your proposal would also result in unknown, possibly more than $1 million, annual General Fund savings from reduced special needs (such as the $70 per month paid to pregnant mothers) and homeless assistance benefits. Finally, as noted, additional unknown savings would

be realized to the extent the proposal deters migration. (We comment on this below.)

County Administrative Costs. This proposal would result in unknown, possibly more than $5 million ($1.75 million General Fund, $2.5 million federal funds, and $750,000 county funds), annual costs to administer a two-tier grant program for AFDC. These costs would result from the additional effort needed to (1) verify whether the applicant has previously received public assistance in another state and (2) determine the applicant's AFDC grant based on the former state's benefit. To the extent the county costs are not offset by grant savings, they would be state-reimbursable.

In addition, the counties would incur unknown, probably more than $600,000, costs annually to administer the two-tier grant program for GA. These costs could be substantially higher if former state aid status proves difficult to determine. Again, any county costs that are not offset by reduced GA costs would be state-reimbursable.

State Administrative Costs. As we discuss below, this proposal may require a federal waiver in order to implement two-tier grants for the AFDC Program (including a waiver of the federal maintenance-of-effort requirements). The state would incur unknown, probably more than $200,000, General Fund costs to apply for, monitor, and evaluate the federal waiver, and to process fair hearing requests from newly arrived applicants that are denied California grants.

SSI/SSP Program

Grant Savings. If grants for new arrivals are reduced for a full six months each, we estimate that this proposal would result in full-year SSI/SSP benefit savings of about $12 million to $15 million annually to the General Fund. An unknown – but probably small – percentage of these savings might be offset by additional costs to the Department of Developmental Services to compensate for reductions in SSI/SSP reimbursements to the department.

This estimate is subject to considerable uncertainty because we have no information about the movement of SSI/SSP recipients or applicants between states. The estimate assumes that SSI/SSP recipients have the same "migration" rate as AFDC recipients. In addition, this estimate is subject to the same qualifications that we noted with respect to our estimate for the AFDC Program.

Administrative Costs. This proposal would result in unknown, possibly more than $500,000, General Fund costs annually. Unlike AFDC, SSI/SSP is administrated by the U.S. Social Security Administration (SSA) and is subject to their regulations. It is likely that determining residency status for current recipients that move from one state to another would be relatively easy because the SSA maintains a national data base of its recipients. It is unclear, however, whether the SSA would fund the additional costs necessary to make determinations of aid status in other states for SSI/SSP applicants that might have been on some other form of public assistance in their state of origin. We also note that federal regulations

include limits regarding the number of state option variations (eligibility criteria) from the federal SSI Program that the SSA will administer. These administrative costs issues could be addressed in the waiver request.

Medi-Cal Program

Health Benefit Savings. Your proposal could also result in costs or savings to the Medi-Cal Program, depending on federal action. This is because the AFDC maximum aid payment (MAP) is generally used to determine Medi-Cal eligibility for medically needy beneficiaries. Specifically, some individuals who are not eligible for AFDC can become eligible for Medi-Cal if their medical expenses require them to "spend down" their incomes to 133$^1/_3$ percent of the MAP. The difference between their incomes and 133$^1/_3$ percent of the MAP is their "share of costs."

If the Legislature reduced the MAP for persons from outside the state, medically needy beneficiaries would have higher shares of cost because they would have to spend down their incomes to a lower level. An increase in a person's share of cost reduces the portion of medical expenditures covered by Medi-Cal, thereby reducing Medi-Cal costs. These costs are unknown, but probably would be less than $1 million. It is not clear, however, whether the federal government would permit California to have a two-tier eligibility determination system for Medi-Cal.

In addition, we should note that when the Legislature and the administration reduced AFDC grants this year, they agreed not to reduce the income level on which

Medi-Cal eligibility is based. If (1) the Legislature chose not to reduce the standard for Medi-Cal eligibility determination in your proposal, but (2) the federal government approved the two-tier approach, then the federal government would probably not provide federal funding for the difference between the cost of the two-tier approach and the cost of leaving Medi-Cal eligibility untouched by your proposal. These costs would then be 100 percent General Fund.

Administrative Costs. In order to determine residency and public assistance status for medically needy persons, counties would incur additional administrative costs. Given a lack of data, we are unable to estimate their costs.

PUBLIC POLICY CONSIDERATIONS

Your two-tier grant proposal raises many basic policy questions. Among the more significant are the following.

Is This Proposal Legal?

Current federal law prevents states from imposing a residency requirement that would preclude recent arrivals in a state from receiving AFDC benefits until the residency requirement is fulfilled. Further, states are precluded from reducing AFDC grants below specified levels. The maintenance-of-effort levels are the grant levels that were in effect in May 1988. Similar requirements apply to SSI/SSP. While these provisions have never been tested in order to determine whether they apply to a two-tier grant proposal, it is possible they

would. Thus, it is likely that the DSS would need a federal waiver of those statutes prior to implementing your proposal.

There is, however, some doubt that a federal demonstration waiver could be obtained. In 1989, the State of Wisconsin submitted a draft waiver proposal to the U.S. Department of Health and Human Services (DHHS). The department has yet to act on the proposal. Discussions with the DHHS staff familiar with the Wisconsin proposal suggest that a waiver for a two-tier grant demonstration might be difficult to obtain. Their reasoning is that, based on a series of U.S. Supreme Court cases, such a proposal could be challenged on constitutional grounds.

Earlier this year, the Minnesota Department of Human Services examined the literature on migration of welfare recipients and the legal basis for imposing a two-tier grant system (among other options to deal with "welfare" migration). They concluded that two-tier grants could be successfully challenged on equal protection and other constitutional grounds.

Will This Proposal Reduce Migration?

The state surveys mentioned above examined in detail the reasons why public assistance recipients move from one state to another. Each survey (except California's, which did not survey recipients) discovered that there are many reasons for moving. Among the most common reasons given were (1) living and environmental considerations, (2) being closer to family and friends, or (3) seeking work. Nonwelfare recipients typically give similar reasons for moving from one state to another. To

the extent these reasons dominate considerations to move, reduced grants for new arrivals may not appreciably reduce migration for those families and individuals that end up on public assistance.

Can We Track GA Applicants to Their Former State?

A successful two-tier grant program would likely require that county public assistance administrators verify public assistance status in the applicant's former state of residence. It may be relatively easy to determine aid status for those applicants that received AFDC or SSI-SSP in another state, since every state operates these program [sic] with similar federal reporting requirements. This may not be possible, however, for GA recipients since GA programs differ significantly from state to state and do not have federal reporting requirements. In addition, it may be more difficult to determine whether GA applicants have been in California for less than six months because of the mobility of many GA recipients.

What is Your Intent Regarding Prior Receipt of Public Assistance?

Your proposal states that "any person who has received any form of public aid or public social services as a resident of another state" would be subject to a reduced grant. This indicates that persons would be subject to the lower grant level if they had received assistance in their prior state *at anytime* during their life. It is not clear to us, however, whether this was your intent.

We welcome the opportunity to meet with you and your staff to discuss the above response. Should you have any questions, please call David Illig or Chuck Lieberman of my staff at 322-8406.

Sincerely,

/s/ Liz
Elizabeth G. Hill
Legislative Analyst

March 9, 1992, California Assembly Floor Debate And Vote On SB 366 (Excerpts)

* * *

Clerk: Senate Bill 366. An act relating to Aid to Families with Dependant Children making appropriation therefore and declaring an urgency thereof to take effect immediately.

Speaker: Mr. Costa, on the bill.

Mr. Costa: Yes, Mr. Speaker and Members,

* * *

Realizing that in fact funds are short in California today, it makes a great deal of sense then to insure that incentives are provided for people from other parts of the country, in fact that who might be lured to California if in fact there is evidence to make that case, that people might be willing to come here for the purpose – to benefit from higher assistance. This legislation attempts to take care of that by requiring a one year residency requirement in California for anyone to benefit from the level of assistance that we now provide for people who are residents of California.

* * *

Speaker: Mr. Bates.

Mr. Bates: Mr. Speaker and Members, I rise to oppose this measure. The situation here is that we are blaming the wrong people for what's going on in our society and in our economy. You have a situation where nation-wide people are becoming more and more unemployed as the economy is not working for people. We

now know that in the area of Los Angeles, one out of every seven people who reside in Los Angeles County are on some kind of assistance. Things are falling apart. Things are going to hell in a hand basket. And to some how or other think that the immigrants are the problem is really to deceive oneself. We have an economy that's in terrible disrepair, and so we must ask ourselves, why are immigrants coming to California? Well, they're coming here just as anyone else is coming here. They are coming here because they perceive there are opportunities here. They are coming here because there is a social network that can receive them. They are not coming here for any perceived welfare benefit increases that they somehow or other could get by coming to California. So we are deceiving ourselves if we think somehow or other people are coming to California for welfare benefits. There is no study, there's no analysis, there's no anything that would point out that people are coming here. They're coming here because they have friends here. They're coming here because they hope they can get a job here. They're coming here because they think they can get a better life for themselves and their families. Or in some cases, they are coming here because they are in a terrible situation where you have a women [sic] who has been battered and wants to get out of the area and wants to have a new life and a new opportunity. That's why people are coming to California. This Bill sends a message that says if you're poor, your [sic] down trodden, California doesn't want you. We don't want you to come here, we want you to go someplace else, the land of opportunity is not a land of opportunity for people who are poor. I think that's a wrong message, it doesn't save any money and I think its simply

demogoging [sic] a point that will mean nothing in the long run.

Speaker: Mr. Nolan.

Mr. Nolan: Yes Mr. Speaker, point of order, I think this Bill is improperly before the House, there is no author. There is no senator as an author of this Bill.

Speaker: Mr. Costa is the floor jockey.

Mr. Nolan: No, no, there is no senator . . . this Bill is improperly . . .

Mr. Costa: The Bill is the property of the House, Mr. Nolan. We had a Bill last year that was under similar circumstances and it has a principle co-author, its [sic] the property of this House and we can choose to use it as a vehicle as we do any other vehicle.

Mr. Nolan: My point would be that there is no senator listed anywhere on this Bill, this is a senate bill, it therefore cannot be considered.

Speaker: We had precedence for this last year, I recall a bill by Ms. Morgan. That's a fair question Mr. Nolan, so you'll have the section. Mr. Polanco.

Mr. Polanco: Mr. Speaker and Members, I rise to ask my colleagues not to support this measure. The two million that is identified as cost savings can be in fact two million dollars that we can get from elsewhere. The premise of SB 366 is premised upon disproved myths about California being a welfare magnet. There is no study that documents this to be the case. In fact, the figures that are out there today will show that California

is experiencing no greater an increase in its welfare caseload than other states across the country. The fact of the matter is Members, is that we are in a deep recession. The fact of the matter is, is that there are a million people in California without work. The fact of the matter is, is that unless we turn around this economy we are not going to be able to bring forward the type of prosperity. To pick on the welfare recipient is nothing more . . .

Speaker: Mr. Polanco, let me help you please. Members, please give Mr. Polanco your attention. Mr. Burden, please, Mr. Nolan.

Mr. Polanco: To continue to pick on the welfare recipient is nothing more than a callous, calculated scape goat. If in fact we are interested in wanting to improve and bring about the necessary change in welfare, then we ought to be targeting communities with resources, with assessments so that people can have an opportunity whereby we can assess their skills. Whereby we can begin to provide job opportunities. But the fact of the matter is Members, is that in California a mere seventy thousand new jobs will be created and as the economic trend continues Members, we are going to see middle class America run out of benefits, middle class America having to go to those lines and we are seeing it today. They will increase in numbers, this is a bad proposal, this is a very cheap shot at a population whom sixty percent are children. It is not the type of message that we ought to send to Californians. I ask for a no vote.

Speaker: Mr. Johnson.

Mr. Johnson: Mr. Speaker and Members, I couldn't disagree more with what Mr. Polanco has said

but I think he's right in the conclusion that he reaches that this Bill deserves a no vote. We ought to be able to agree, all of us, Republicans, Democrats, liberals, conservatives, all of us ought to be able to agree that the welfare system in this state just simply does not work. Period. It doesn't work, it's a disgrace. We shouldn't have people suffering. I'm opposed to this Bill because I believe it is unconstitutional on its face. It has been put forward by a governor trying to wrap it in a whole series of issues in an initiative and it's now being supported by a great many democrats for precisely that reason – to defeat the initiative – because they are concerned about it. So the game that is being played here, and lets [sic] be honest, on the part of democrats – lets pass this because public opinion polls show that it's popular and we are confident that the courts are going to throw it out ultimately because it is unconstitutional. We'll have the absurd situation of people coming in to this country from Mexico, from Southeast Asia, from all over the world and being able to go on welfare, AFDC payments immediately the same as if they had lived in California all of their lives but we are going to deny those same level of benefits to people who come here from Arizona or Missouri or some other state. If we were to apply the same logic for example, to the payments that we provide to school districts on average daily attendance and say we're going to provide average daily attendance level for students whose families are long-term residents of California at a given level, but those who have moved recently from Missouri or Arkansas or Texas, we're only going to provide the level of support for the school districts for that child's education that would have been provided in the state that

they moved from. Obviously it's unconstitutional. This is an unconstitutional proposal that probably is going to pass by people who want to support the Governor, who believe we need to do something to reform welfare, and on the part of some who cynically say let's pass it – the courts are going to throw it out – it will weaken the opportunity for the Governor's initiative, should it qualify, to pass. Please vote no.

Speaker: Mr. Quackenbush.

Quackenbush: Question for Mr. Costa. Mr. Costa, where was this Bill amended to reflect all these provisions in it at this time? Was it amended in Human Services or was it amended here on the floor?

Mr. Costa: The measure was amended on the floor.

Quackenbush: Are you aware that it's a carbon copy of my Bill AB 2584, that's now on the Human Services Committee?

Mr. Costa: Well, than [sic] you should like it.

(laughter)

Quackenbush: I'm just curious, is this the moral equivalent of withdrawing a Bill from Committee? It that what it might be?

Mr. Costa: I don't believe so.

Quackenbush: I'd ask for an aye vote and wondering how I can get on as a co-author, Mr. Costa.

Mr. Costa: I would be more than happy to have you as a co-author.

Quackenbush: I could be the author.

Speaker: Mr. Burton.

Mr. Burton: Why don't you run for the Senate and then you could put your name on it and solve Mr. Nolan's problem. I would have to really agree with Mr. Johnson, I think this a very demeaning Bill to this House, it's a demeaning Bill to the process. We had a residency requirement put in a welfare reform bill some years ago that then Governor Reagan proposed – that was thrown out. What we are saying to children is, if your family happened to come here from another state looking for a job, and even found a job but was then layed [sic] off of that job, and there is no unemployment insurance; there is no other job opportunity, and to take care of your children you must be on welfare, that somehow their stomachs are a little bit smaller than the stomach of the person who lives next door who has lived in this State over a year; that their need for clothing for a young child going to school is a little bit less than the child living across the street who may also be on welfare through no fault of that child, because the parent has been unable to find a job; that somehow that clothing will be a little bit cheaper because they will have some sort of certificate saying they haven't been here a year. I don't intend to vote for this Bill because I think it demeans the process and really demeans this body that in my judgment will overwhelmingly pass the Bill.

Speaker: Mr. Peace.

Mr. Peace: Mr. Speaker, very briefly I would like to associate my remarks to Mr. Johnson who associated his remarks to Mr. Polanco and agree that in fact this

is much ado about nothing. It's a ludicrous proposal. Only I would disagree with the conclusion and say that because it is so ludicrous we ought to vote aye. And the reason that you ought to vote aye is it's one way to get one more ludicrous, silly, deceptive thing segregated away from the otherwise heinous and silly proposal the Governor has put forward for November so that we can talk about the real substantive silly things that he has proposed for November rather than talk about these other silly things that we all agree has no substantive dollar affect on the budget or on any impact of this stuff about people moving from left to right or anything else. So let's pass it, get it out of the way. We can try to tombstone it the Quackenbush Act if we like, and then we can deal specifically with the substance of the proposal the Governor – at least to this date – thinks he wants on the November ballot. Although I understand his political folks have been trying to encourage him to change his mind at this point. But let's hope he doesn't so we once and for all bring this issue to rest. I ask for an aye vote.

Speaker: Mr. Gotch.

Mr. Gotch: Mr. Speaker, thank you. Question for the author. Mr. Costa, question for the author.

Unidentified: Principal co-author.

Mr. Gotch: Yes, question for the principle co-author. Mr. Costa, it's not abundantly clear in reading the Bill that it's your intent to ensure that the California grant would in fact be the ceiling so that anyone who might come from another State that pays a higher grant, for Alaska wouldn't be receiving that state's grant but in fact would receive no more than the State of California. If it

doesn't become any clearer when we get to the Senate, would you object to an amendment that would so clarify?

Mr. Costa: No, the important thing is that the California level be the cap in terms of the highest amount that a recipient could receive. Your point that in Alaska the assistance is higher than that of California's as well as I think one or two other states, that those residents coming from that state would then in fact have to receive a higher benefit, it's stated in the language, and if leg. counsel wants it further clarified, or if we are not satisfied with the response, I will add further language that will make it crystal clear that in fact the California level is the cap and the highest that a recipient could receive.

Mr. Gotch: Thank you. Mr. Speaker, on my own time. It's certainly debateable [sic] whether the westward migration is in fact fueled by California as a welfare magnet. I doubt that's the case but none the less the passage of this Bill would certainly lay to rest that question and I would urge an aye vote on the Bill before us today. Thank you.

Mr. Speaker: Mr. Gotch, I just want to remind you that if this Bill goes back to the Senate it's for concurrence only it would not be eligible for amendments without going to conference committee.

Speaker: Mr. Wyman.

Mr. Wyman: Thank you Mr. Speaker and Members. I rise to support this measure.

* * *

[I]t is a legitimate response to the concern, to the fact that California has become a welfare magnet and that people

have come to this State because they see it as an opportunity to max out their welfare level of subsistence for themselves and those that they support – or at least on welfare – have supported by the State. So this is a measure that makes sense. It is part of a proposal that the Governor is putting on the ballot. Maybe this will be defeated so that it will be in its pure form and on the ballot.

* * *

And I think that our constituents in the very high percentiles that have been tested on this issue, wonder why there is any debate on this measure at all. This is excellent law, it should be adopted by this legislature and if this legislature sees not to, than [sic] I assure you it will be adopted in November. I ask for an aye vote.

Speaker: Mr. Harvey.

Mr. Harvey: Yes, Mr. Speaker and Members. I liked this Bill when it was a Quackenbush Bill and I still like it as a Costa Bill. I'd like it a lot better if you'd have accepted our six amendments to do so something real meaningful instead of just chipping at this today. We had six good amendments today that really would reform welfare in this State and get rid of those abusers but the democrats don't want to do that today so I'll take this little piece and take a step forward in this election year at least, and hope that you will join us later on this year to do what's deserving of people of the State of California and take all of our amendments. I'd ask for an aye vote.

Speaker: Mr. Connelly.

Mr. Connelly: Mr. Speaker and Members, very briefly. I'm speaking on this because the discussion has been so theoretical – constitutional or not – it's probably not –

* * *

there is something very real in this Bill. This Bill says that if people move here and if something happens and they go on welfare, they can't receive any more benefits than the state that they came from for twelve months. And for a lot of states that means a very low level. For some southern states it means a level as low as one hundred-twenty dollars a month for a women [sic] with two children. If she moved here this month as an example, with her husband and that husband fled, took off, abandoned her – real world things happen – and she was here with her two children, she could get no more than one hundred-twenty dollars a month to support those children for twelve months in the State of California. Whatever else you think about this Bill on theoretical basis, political strategy basis, somewhere inside of you you've got to know that there are going to be situations where this Bill applies in a fashion that is totally, totally unfair. And for that reason, no other, you ought to vote no.

Speaker: Any further question or debate? Hearing none, Mr. Costa, you may close.

Mr. Costa: Yes, Mr. Speaker and Members, I think there was a lot of comments that were made that all suggest some strong feelings as it relates to this legislation before us. But I think that when you examine everything before us in this legislation, you have to realize that we've made cuts that a lot of people would not concur

with. And when we don't have enough to keep the current system intact – as fraught as that system is with problems – it certainly doesn't make any sense to be expending it for others who are not yet even have come to California.

* * *

And we're balancing our budget on the backs of a lot of Californians that we would prefer in other ways not to have to do so.

* * *

Speaker: All debate having ceased, all time has expired. Clerk will please prepare the roll. It take [sic] fifty-four votes. All members vote who desire to vote. All members vote who desire to vote. Clerk will close the roll, tally the vote. Prepare to announce the vote. Ayes fifty-four, nos fourteen on the urgency, ayes fifty-four, nos fourteen on the Bill.

* * *

BASIC FACTS ABOUT AID TO POOR FAMILIES IN CALIFORNIA

Numbers receiving aid, July 1996

	Single or no parent	2-parent	Total
Persons	1,935,389	641,607	2,652,431
Families	718,546	158,370	952,351
Children	1,373,979	400,152	1,774,131

Maximum Aid Payments, AFDC, 1996-97

Family size	Oct.96	10/96 Exempt	1/97 Region 1	1/97 Region 2	1/97 Reg 1 Exempt	1/97 Reg 2 Exempt
1	$293	$326	$279	$265	$310	$295
2	$479	$535	$456	$434	$509	$484
3	$594	$663	$565	$538	$631	$600
4	$707	$788	$673	$641	$749	$712
5	$806	899	$767	$730	$855	$813
6	$905	1010	$861	$820	$961	$913
7	$994	1109	$946	$900	$1055	$1003
8	$1083	1209	$1030	$981	$1150	$1093

Region 1: Alameda, Contra Costa, Los Angeles, Marin, Monterey, Napa, Orange, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Ventura.
Region 2: All other counties
Exempt: Familes in which all adult caretakers are disabled or caring for disabled child

Miscellaneous characteristics:

Percent of caseload which have received a total of 5 or more years of assistance: 32% (10/94)
Percent of caseload which have received a total of 2 or more years of assistance: 65% (10/94)
Percent of caseload aided continuously more than 5 years: 21.5%
Average number of children per family: 2.
Percent of cases with 3 or fewer children: 88.8%
Percent of recipients who are not citizens: 14.6% (375,000 persons)
Ethnic breakdown by race of parent: White 25.9%; Black 17.4%; Hispanic 41.5%; Asian 9.0%
Percent of cases with child under 6: 66.4%
Percent of California AFDC households with housing subsidy: 8.6% (rank, 51st in U.S.)
Percent of AFDC households reporting earnings, 10/94: 9.8% (2-parent households = 22.9%)
Percent of AFDC households with work history: 89%
Percent of AFDC adults engaged in GAIN activity: 11%
Percent of non-exempt AFDC adults engaged in GAIN activity: 21%

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Declaration Of Robert Greenstein

Robert Greenstein, hereby declare as follows:

1. I am the Executive Director of the Center on Budget and Policy Priorities, a Washington, D.C.-based non-partisan, non-profit research center that examines the impact of federal and state government policies on low- and moderate-income families and individuals in the United States.

2. I have been involved in research, policy analysis, and policymaking on issues regarding low-income people and welfare programs for over 20 years. Between January 1979 and January 1981, I served as administrator of the federal Food and Nutrition Service. I was the chief executive officer at the United States Department of Agriculture in charge of managing all domestic food assistance programs, including the Food Stamp and school lunch programs. Prior to that time, I worked as a special assistant to the Secretary of Agriculture from March 1977 to January 1979. In that capacity, I was the USDA representative on inter-agency and White House task forces on welfare reform.

3. I founded the Center on Budget and Policy Priorities in 1981. Under my direction the Center has published hundreds of studies, issue papers, and analyses of welfare programs, poverty, hunger, homelessness, and other topics related to low-income people. On behalf of the Center, I have testified on numerous occasions before Congress and state legislative bodies, as well as federal agencies and commissions, as an expert on poverty and welfare issues. My recent work includes serving as a member of the federal Commission on Entitlement and

Tax Reform, testifying before the 104th Congress on federal welfare reform proposals, and serving on the District of Columbia Citizens Welfare Transformation Committee established by the Mayor. I currently serve on the Policy Advisory Board of the Urban Institute's recently created Federalism Project. The board is overseeing a major Urban Institute project to identify the state and local policy changes that will occur under welfare reform, as well as the impacts of these changes on low-income families and individuals.

4. Over the past two years, a major focus of the Center's work has been analysis of the federal welfare legislative proposals, including the bill that was ultimately enacted as the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193. As the predecessors of the new law were under consideration by Congress and the President, the Center under my direction prepared extensive analyses of the provisions of the bills and their potential effects on poverty. Once the new law was enacted, the Center began to study and monitor its implementation in the states, since a key aspect of the new law is that it transferred broad authority over a range of policies from the federal government to the states. The Center established a division to focus on state-level welfare policies and the implementation of the new federal welfare legislation. That division now comprises six professional staff members, who monitor state welfare plans and legislation, collect and analyze numerical data, study published scholarly articles and unpublished papers, and remain in contact with state and local policymakers, academics and interested policy organizations from around the country. All of these methods

are regularly used by organizations engaged in policy analysis to monitor state and local policy decisions and effects of federal policies as they are implemented by states.

5. I am familiar with California's cash welfare program for families with children and how it treats families that move to California from other states. I am aware that pursuant to state legislation enacted in 1992 and implementing regulations promulgated in 1997, there now exists a "Relocation Family Grant," such that "families that have resided in this state for less than 12 months shall be paid an amount . . . not to exceed the maximum aid payment that would have been received by that family from the prior state of residence." Welfare and Institutions Code Section 11450.03. Guidance to county welfare agencies on the implementation of this requirement from the California Department of Social Services states that the residency requirement applies to newcomers to California regardless of whether they received welfare benefits in their prior state. California Department of Social Services, All County Letter #97-11, February 28, 1997. The guidance to counties also states that a family's basic benefit will be determined by selecting the lower of a) the benefit the family would receive under California's benefit rules for longer-term residents (the "California computed grant"), not including special needs payments and b) the "Maximum Aid Payment" amount for a family of that size in its prior state. (In addition to basic benefits thus determined, newcomers to California would be eligible for special needs payments to the same degree as longer-term residents.) The guidance does not require California welfare agency officials to determine the actual

benefit a family would have received in its prior state, which may be lower than the maximum benefit due to factors such as a family's earnings, but rather the highest benefit that a family of that size could have received under the welfare program in the prior state.

Residency Requirement Will Reduce Benefits for Families that Move to California for Reasons Other than Welfare Benefits

6. The California residency requirement contains no mechanisms to distinguish between families that have come to California for higher benefits and those that move to California for other reasons. The most recent data from the California Department of Social Services shows that 33.5 percent of the recently arrived California AFDC recipients had received welfare benefits prior to moving to California, while 46.1 percent had not received welfare benefits. For 20.4 percent of the families, the survey did not reveal whether the family had received AFDC benefits in the prior state. California Department of Social Services, Aid to Families with Dependent Children Characteristics Survey, Study Month of April 1993, Table 23. This means that among the families for whom the welfare status in the prior state of residence was known, just 42 percent had received welfare benefits. While these data do not address directly the reasons for moving to California, they strongly suggest that many families move with no expectation of receiving welfare benefits. Thus, the residency requirement will limit the welfare benefits of many families that move to California but are not the intended target of the legislation. In addition, the requirement will limit a family's welfare

benefit to the level in another state even for long-term California residents that move out of state for as little as one month and then return to California. This may include, for example, a family from California who moved to another state briefly but returns home to California to flee an abusive relationship.

Variations in States' Welfare Programs Under the New Welfare Law will Undermine the Rationale and Workability of the Relocation Family Grant

7. California's Relocation Family Grant provision was designed in 1992 in the context of the AFDC program, but it is a poor "fit" for the new system put into effect by the 1996 federal welfare law. The rationale for the Relocation Family Grant appears to be to provide families no more than the welfare benefits they would have received in their previous state of residence. The new federal law, however, has fundamentally changed the welfare system; under the new structure, it becomes virtually impossible to achieve this result through the mechanism of the Relocation Family Grant. The federal law repealed the AFDC program and enacted the Temporary Assistance to Needy Families block grant in its place. Under AFDC, state welfare programs shared many key characteristics, because AFDC program rules were governed to a great extent by federal statute and regulations. States were allowed some flexibility over some of their AFDC rules, particularly with respect to benefit levels. Under conditions set forth in federal law and by the Secretary of Health and Human Services, states also were allowed to operate under rules that varied from federal rules by submitting a request for a waiver from these

rules to HHS. Even with these variations from federal rules, however, basic features of program design were common across states. In virtually all cases, families participating in AFDC were eligible for a cash grant. In addition, under the AFDC system states were required to submit detailed information to HHS on their AFDC program features, including both those allowed under the basic law and those approved in the waiver process.

8. The TANF block grant, on the other hand, is a funding stream with a limited number of federal requirements. As is the case with block grants generally, states can use TANF funds for a variety of purposes, including but not limited to providing cash assistance. States can use TANF funds to create new programs, to fund existing programs, to pay for services, and to provide assistance in ways other than through basic cash grants. Even when TANF funds are used to provide cash assistance, states can establish benefit rules in virtually any way they deem appropriate. Many states already are taking advantage of the flexibility under the TANF block grant to create programs that differ significantly from AFDC and from welfare programs in other states.

9. Another important distinction between AFDC and TANF is that states face minimal requirements to report to the federal government on the uses of TANF block grant funds. States must file a "state plan" with HHS, though there are few requirements for the contents of these plans. For example, states are not required to identify benefit levels or other key features of programs funded with TANF dollars. There also is no federal requirement that states file amended plans or otherwise

report to HHS changes in the design of programs funded under TANF.

10. This new structure inevitably will result in wide interstate and intrastate variation in welfare programs, to a degree that was not possible under the AFDC program. This will make it very difficult for California officials to accurately identify for any newcomer family the payment level the family would have received in its prior state. In its All-County Letter of February 28, 1997, the California Department of Social Services apparently has attempted to simplify the complex task of identifying the appropriate aid payments for the particular family seeking aid by directing that newcomers be provided the "Maximum Aid Payment" payable in that state for their family size. This system could limit harm to families if DSS correctly identified the highest aid payment among all programs within the state. Yet, as explained in paragraphs 20 and 21, DSS did not correctly identify the highest benefit level of all programs in each state. This appears to be in large part the result of a failure to capture the complexity of each state's welfare system. As a result, some families that move to California will receive a lower benefit than they would have received in their prior state. These mistakes occurred at a time when states were still essentially operating their old AFDC programs. The difficulty in identifying the highest welfare benefits in every state will increase in the near future as states experiment with the design of welfare programs. This will in turn increase the likelihood of mistakes that will result in lower benefits for some newcomers than they would have received in their prior state.

11. One of the most immediate results of the very broad flexibility offered to states by the new welfare law is likely to be increasing intrastate variation in benefit amounts. Under AFDC, most states had a single maximum benefit amount for a given family size, applying statewide. A few states varied the maximum benefit region by region. The new federal law eliminated any requirement of a single statewide system. Under the new law, each state is free to vary the maximum benefit amounts within the state to any extent. For example, some states, such as Colorado and New York, are considering proposals to pass along their block grant funds to counties. The counties in these states would have authority to create their own county programs. Each county could have their own rules and their own benefit levels.

12. Other states are considering "privatizing" some or all aspects of their welfare systems by contracting out administration of various aspects to for-profit or not-for-profit firms. Texas, for example, has proposed contracting out a significant portion of its program administration. A state also could contract with a number of different firms for different geographic areas or within the same area. Under the new law, each state is free to allow private entities to set benefit levels, creating the potential for even more intrastate variation.

13. The new law allows states to run a number of different programs within each state. Thus, maximum benefit amounts may vary between programs, as well as between regions. Under the new law, states may fund any number of programs with TANF dollars, rather than following a single program design as was done under the AFDC program. Furthermore, the TANF statute includes

a "maintenance of effort" provision, requiring states to spend at least a designated amount of their own money as a condition of receiving the federal TANF funds. The state maintenance-of-effort money, however, may be spent for other, separate state programs than the programs funded with the federal TANF block grant. For example, in the state of Washington the governor has proposed establishing a separate program for families where the household head is either disabled or a non-parent over 50 years of age, or is the caretaker of a disabled child. The policy rationale is that the work requirements and time limits that apply to families that receive assistance from TANF-funded programs are not appropriate for these families. As states experiment further, they may find that multiple state-funded programs are desirable to allow them to meet the diverse needs of their low-income residents. There is no requirement that these different programs within a state have the same maximum benefit amount.

14. Intrastate variation in maximum benefits is only one of a host of program design options left to states under the TANF block grant. To the extent states take advantage of these options, the "Maximum Aid Payment" contemplated by the Relocation Family Grant provision will come to be less and less analogous to any measure that exists in a given state. For example, a state could design a program where a family received only a very small cash grant, but received housing, utilities, clothing and food in-kind or through voucher payments. To compare the California grant, which is expected to pay for all the family's basic needs; with the cash grant in this type of program, which may only be expected to pay for

incidentals, would lead to severely understating the benefits available to the family in its previous state of residence. Alternatively, California could attempt to place a value on the in-kind support received by the family, but this would require it to make difficult judgments, especially since the value of housing and other in-kind aid might vary widely in different parts of the state in question.

15. Another program design would be where a state sets a basic grant which is very low, but makes additional payments to families based on individualized criteria. The additional payments could be based on child support collected from an absent parent. They could be based on families' actual costs of housing, transportation, food or clothing. In Washington, D.C., there is a proposal that certain recipients who find jobs receive a "bonus" payment. The "basic" grant in these systems would not be comparable to the California "Maximum Aid Payment." It would not be intended to meet all the family's needs, nor would it be the maximum amount of assistance families would be eligible to receive. Moreover, the actual amount of assistance could vary from family to family, sometimes based on local discretion, making it impossible to ascertain any figure comparable to the "Maximum Aid Payment."

16. Another program design receiving consideration in a number of states is to replace the system of cash benefits with jobs – either through private employers or government agencies – for at least some low-income families. These jobs would pay at least minimum wage and provide eligibility for the federal Earned Income Tax Credit. Additionally, some states operate a state-funded

Earned Income Tax Credit, for which such families would also be eligible. The state of Oregon operates a program whereby a family's welfare grant and the cash value of food stamps, instead of being paid to the family, are paid to an employer who hires a member of the family. A proposal in Wisconsin would have all eligible families with an able-bodied adult working either for a private employer or a government agency, with the wages subsidized by TANF funds. Under such systems, there would still be a cash assistance program, for recipients for whom an employer cannot be found, or where the adult is unable to work. If a family moved from such a state to California, California could consider the "Maximum Aid Payment" to be the maximum benefit in the cash assistance program. (This is apparently how California DSS is currently treating families form Oregon). However, this would not accurately account for the aid provided to a family in the work program, since the wages in the work program likely would be higher than the cash assistance grant. Alternatively, California could consider the "Maximum Aid Payment" to be the gross wages that a family could earn in the other state's work program, but that fails to take into account additional benefits the family would have received as a result of working, such as the Earned Income Tax Credit. An aid payment that is converted into a wage that then triggers eligibility for the Earned Income Tax Credit is not comparable to the kind of "Maximum Aid Payment" contemplated by the California Relocation Family Grant.

The New Welfare Law Will Make Monitoring Other States' Programs Untenable.

17. Exacerbating the problem of interstate and intrastate variation in benefit amounts and program designees are two additional difficulties. The first is that there is no longer any centralized repository of information about states' welfare programs or benefit levels. Under AFDC, each state reported to the U.S. Department of Health and Human Services its maximum benefit amount by family size, and these amounts for each state were readily available. Under the new law, no federal department collects this information, much less information about radical departures in program design. States are only required to file state TANF plans, which are not required to contain the information California would need to administer its Relocation Family Grant provision. Monitoring the maximum benefits for which newcomers to California would have been eligible in their prior state would require California to identify on its own all state and local entities with authority to set welfare benefits and all programs operated by these entities, and to sort out the program design differences in each of these jurisdictions.

18. The second additional difficulty is the probability of continuous change in states' programs. It is likely that these changes will be numerous over the next several years, as states take advantage of the flexibility granted them under the 1996 federal welfare law and as new programs are modified based on initial experiences. It is important to note that while some of these changes will occur as a result of state legislation that may be readily available in a law library, others will come about as a result of local ordinance, state or local regulations,

and decisions by local agencies or private companies. States are not required to file amendments to their TANF plans with the federal government when they make such changes. A typical pattern that many states are experiencing this year shows the amount of change that can be expected early in the process of the conversion from AFDC to TANF. Most states have already filed their TANF plans, some of which changed the states' AFDC systems. Now most states' legislatures are meeting, and considering additional changes. Some of the changes will be minor, some extensive. In most states, agencies administering TANF-funded programs will be left with a certain amount of discretion in implementing legislative directives, which in some states will bring about further changes. In this environment, it will be difficult or impossible for California DSS to track all changes in welfare benefits in all of these programs.

Administering the Relocation Family Grant Rule in the Context of the TANF System will Inevitably Cause California to Make Mistakes in Identifying the Maximum Grant for Families in Other States, and to Fail to Account for Differences Between Other States' Welfare Systems and California's System.

19. The wide-ranging variations in benefit amounts and program designs allowed by the new law, the rapidity of change, and the lack of any system of centralized reporting will make it implausible that California will accurately identify the maximum benefit for which a family would have been eligible in its previous state of residence. Indeed, the table of maximum state welfare benefit amounts that the California Department of Social

Services prepared for the April 1, 1997 implementation of the residency requirement, attached to All-County Letter #97-11, illustrates this problem. In an apparent effort to solve the problem of intrastate variation and to ease administration, the California Department of Social Services has identified only one maximum benefit level for families of a given size in each state. This effort at simplification would be appropriate if DSS were to correctly identify the highest maximum benefits from among all welfare programs in all regions in the state. That would mean that every affected family would be assured of receiving at least the benefit level it could have received in its prior state. Yet the DSS table does not show the highest welfare benefit among all programs within each state, which means that some families moving to California would receive a lower welfare benefit under the Relocation Family Grant than they would have received in their prior state.

20. The DSS table fails to identify the highest welfare benefit available in a number of states that have varying benefit levels, including Connecticut, Kansas, Michigan, New York, Virginia, and Wisconsin. In each case except Wisconsin, these are states in which welfare benefits vary regionally. The DSS table appears to show the benefit level for the largest city in the state, even if this is not the highest benefit level in the state. The Wisconsin benefit level appears to be the amount for families in the program that most closely resembles the former AFDC program: a program for families exempted from the work requirements. Yet families in Wisconsin with an adult who is considered able to work are placed in a work program under which benefits are somewhat

higher than in the program for families with a parent who is unable to work. In all of these states, the maximum benefit identified by California DSS is lower for some families moving to California from these states than the benefits the families would have been eligible for in their former state. For example, a family of three living in Stamford, Connecticut, can receive a maximum benefit of $636 a month in welfare benefits, but the benefit levels shown in the DSS table is $581. If a family moves to California from Stamford, it would receive $55 per month less than it would receive in Connecticut.

21. A review of the DSS table shows that it includes other mistakes in identifying the benefit levels in other states. The maximum benefit level for a family of three in Connecticut in the table is $581. This is not the maximum benefit for any family of three in Connecticut. Prior to July 1, 1995, the maximum welfare benefit for a family of three in Hartford, Connecticut was $581 a month, but that benefit level was reduced to $543 more than a year and a half before the distribution of the DSS table. In addition, the maximum benefit level identified for a family of three in New York in the DSS table is $524 a month, which also appears to be a mistake. The maximum benefit level for a family of three in New York City is $577 a month, and $53 of this is considered energy assistance. The table appears to show the benefit without the energy assistance portion. These examples highlight the difficulty of monitoring and keeping track of changes in welfare benefit levels in other states. These difficulties – and mistakes – arose even before the changes that are likely to result from the new welfare law have occurred.

22. The difficulties in collecting accurate information about other states' programs will be even more formidable for a recipient of assistance who wishes to contest a decision made by the state on the basis of the Relocation Family Grant. A family that is not provided the correct level of assistance will have a right to appeal that decision. That right, however, will be meaningless without accurate information. A low-income individual will have few means of accessing reliable information about the maximum benefits in the area of a state where she used to live or in some other area of the state with a higher benefit, under rules that may well have been rewritten a number of times since she moved to California.

California's Housing Costs Are Among the Highest in the Nation; Under the Residency Requirement, Many Families Moving to California Will Face Difficulty Finding Affordable and Decent Housing

23. While California's welfare benefit levels have ranked among the highest in the nation in recent years, a simple comparison of benefit levels is incomplete and somewhat misleading because it does not take into account differences in the cost of living across the states. The cost of living in California is among the highest in the nation. This can be demonstrated by examining differences in housing costs, typically the largest budget expense for welfare families. This means that California needs to provide higher benefits than states with lower housing costs in order to allow families to obtain a given quality of housing.

24. When 1996 welfare benefits are compared with housing costs, California's benefits rank near the middle of all states, Table I compares the maximum AFDC benefit for a family of three as of July 1996 with the costs of modest housing in each of the 50 states and the District of Columbia based on a survey conducted by the United States Congressional Research Service.

25. The housing measure used is the weighted average Fair Market Rent for metropolitan areas in each state. Fair Market Rents are established by the U.S. Department of Housing and Urban Development for every metropolitan area and non-metropolitan county in the U.S. They are the standard for several of HUD's principal low-income housing programs and are intended to reflect the amount needed to meet rent and utility costs of "privately owned, decent, safe, and sanitary housing of a modest (non-luxury) nature with suitable amenities." Federal Register, Vol. 61, No. 184 (September 20, 1996), p. 49576. The 1997 Fair Market Rents are based on 1990 census data that were updated each year based on data from the American Housing Survey of the Bureau of the Census (the primary source of housing data between decennial censuses), data collected from HUD telephone surveys, and the Consumer Price Index (the official measure of inflation in the United States).

26. As Table I indicates, the Fair Market Rent for even a one-bedroom exceeds the entire AFDC grant in nearly every state, and it would consume at least 61 percent of the maximum welfare benefit in every state. Thus, it is likely that most welfare families pay less for rent and utilities than the Fair Market Rent. Nevertheless,

because Fair Market Rents are determined using a consistent measure for every jurisdiction in the nation, and because they are intended to reflect the costs of decent low-cost housing, they are the best source with which to identify variations in the adequacy of welfare benefits relative to the costs of obtaining decent housing.

27. While California has higher welfare benefits than in most states, it also has higher housing costs than all but three states – Hawaii, New Jersey, and New York – and the District of Columbia. As a result, California's benefits are not necessarily more generous than states with lower welfare benefits when each state's housing costs are considered. For example, California's maximum welfare benefit for a family of three – $565 a month – is more than $100 higher than the monthly welfare benefit of $438 for a Montana family of three. Yet Montana's welfare benefits appear to be more adequate relative to housing costs than California's. The Fair Market Rent for a one bedroom apartment in Montana is $352, well below the average Fair Market Rent of $619 for one-bedroom apartments in California. Obtaining an apartment at the Fair Market Rent would require 110 percent of the maximum welfare benefit in California, but 80 percent of the maximum welfare benefit in Montana. This suggests that Montana's lower welfare benefits allow families in that state to occupy better quality housing than families in California that receive higher welfare benefits.

28. When welfare benefits are compared to housing costs in each state, California ranks 18th in the nation. In this light, the value of California's welfare benefits are close to the middle when compared with other states, not

near the top. Moreover, this ranking overstates California's standing because it does not take into account the limited extent to which welfare families in California receive housing assistance from the federal, state, or local government. According to the U.S. Department of Health and Human Services data for 1995, only nine percent of California's AFDC families received housing assistance. This was the lowest proportion of any state and less than half the national average of 22.5 percent. U.S. Department of Health and Human Services, Aid to Families with Dependent Children, Characteristics and Financial Circumstances of AFDC Recipients, FY 1995, Table 4.

29. Because California's housing costs are high relative to most states and because welfare families in California are less likely than welfare families in any other states to live in subsidized housing, the residency requirement will place many recently arrived welfare families on an inferior footing relative to welfare families in the state from which the newcomers moved. In all but two of the 45 states (including the District of Columbia as a state) in which welfare benefits are lower than in California, the average statewide costs of modest housing also are lower than in California. This means that newly entered residents from 43 of these 45 states typically will face higher costs of living, but they will not receive welfare benefits that reflect or adjust for those higher costs. As noted, the average Fair Market Rent for a one-bedroom apartment in Montana is $352 in 1997. A family moving from Montana to California – where the average Fair Market Rent is $619 a month – is likely to experience a sharp increase in housing costs. Under the California residency requirement, the family's welfare benefit would

remain at the Montana level of $438, rather than the California benefit of $565. As a result, such a family likely would have to spend a much larger share of its income to obtain housing in California than it had in Montana. It also is likely that the family would be more likely to live in overcrowded or substandard housing than it had in Montana.

30. The residency requirement also will leave recent residents of California on an inferior footing relative to long-term California residents, many of whom have difficulty affording decent housing despite receiving the state's regular welfare benefits. The average metropolitan Fair Market Rent for a two-bedroom apartment in California is $777 in 1997. Thus, the maximum welfare benefit for a family of three in California's urban areas, which is $565 a month, equals just 73 percent of the costs of obtaining a modest two-bedroom apartment. The maximum benefit for a family of three also falls below the average Fair Market Rent for a one-bedroom apartment, which is $620 a month. New residents, with even lower grants than other Californians, will face even more severe difficulties affording housing. In fact, there are 15 states in which the maximum AFDC benefit for a family three [sic] was less than half the Fair Market Rent for even a one-bedroom apartment in California.

31. There is evidence that the high costs of living in California have made it difficult for current welfare families to obtain basic necessities. Research conducted by Jane Mauldon of the Graduate School of Public Policy at the University of California-Berkeley included a telephone survey of California adults who were receiving AFDC benefits in October 1992. As part of the interview,

respondents were asked whether anyone in the family had gone without food at any time in the previous 12 months due to a lack of money to buy food. The interview also included questions needed to determine whether a family was living in overcrowded conditions – defined in the study as more than two persons per bedroom. The survey covered families in California counties that included 60 percent of all welfare recipients in the state. The survey results included responses from 1,705 welfare family heads, a sample size that is sufficiently large that the findings are likely to be representative of the general population in these counties. The study found that 36 percent of respondents had experienced hunger due to a lack of money in the prior year and that 35 percent lived in overcrowded conditions. Overall, 58 percent of families experienced one or both of these problems. Jane Mauldon, "Predicting Hunger and Overcrowding: How Much Difference Does Income Make?" Institute for Research on Poverty, University of Wisconsin-Madison, Discussion Paper 1114-96. It is likely that both of these problems are related to the high costs of housing in California, which make it difficult for families to obtain adequate housing and leave families with little money for food after paying the rent. (While the families that receive welfare typically receive food stamp benefits as well, the maximum food stamp benefit is lower than what most families need to get an adequate diet.) It is important to note that the maximum welfare benefit for a family of three in California today – $565 a month – is lower than the maximum benefit of $624 a month in 1992, which

suggests that the proportion of California welfare families unable to obtain adequate basic necessities has increased since the time this survey was conducted.

32. The difficulties in obtaining basic necessities would be even more severe for newcomers affected by the residency requirement than for long-term California residents. For example, a family of three moving to California from Texas would receive the maximum Texas welfare benefit of $188 per month. That amount is just one-third of the maximum benefit level for longer-term California residents. The family would receive a higher food stamp benefit than would be received by longer-term California residents – since food stamp benefits are based on a family's income. Nevertheless, the combined value of welfare and food stamp benefits for a family of three moving from Texas, $503, would be roughly three-fifths of the amount in food stamp and welfare benefits received by longer-term California residents, $840. Considering that a majority of California families that were eligible for the maximum California benefit experienced hunger or lived in overcrowded conditions in 1992, it seems likely that most families moving from Texas would suffer from one or both of these problems. The much lower cash grants would push more families into overcrowded quarters. Many families would likely find themselves compelled to move into housing that is substandard or is located in areas that are dangerous and unfit for children. Some families probably would become homeless. And most families that remain housed would have little or no money after paying the rent to supplement food purchased with food stamps.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND ACCURATE.

Date: 3/28/97

/s/ Robert Greenstein
ROBERT GREENSTEIN

Table I
HUD Fair Market Rents as Percent of Maximum AFDC Benefits, By State
States Ranked by Two-Bedroom FMR as a Percent of AFDC

Rank	State	HUD 1997 Fair Market Rents* 1 Bedr.	2 Bedr.	AFDC Benefit 3-Person Family July 1996**	One-Bedroom FMR As Percent of AFDC Benefit	Two-Bedroom FMR As Percent of AFDC Benefit	Percent of AFDC Families With Housing Aid, 1995
48	Alabama	$371	$443	$164	226%	270%	33.4%
1	Alaska	$565	$750	$923	61%	81%	34.0%
30	Arizona	$449	$557	$347	129%	161%	16.4%
45	Arkansas	$370	$468	$204	181%	229%	33.6%
18	California	$619	$777	$565	110%	138%	9.3%
32	Colorado	$454	$597	$356	128%	168%	31.5%
21	Connecticut	$613	$761	$543	113%	140%	34.1%
44	D.C.	$676	$794	$379	178%	209%	41.9%
39	Delaware	$544	$631	$338	161%	187%	37.0%
43	Florida	$508	$624	$303	168%	206%	15.8%
42	Georgia	$490	$576	$280	175%	206%	25.7%
19	Hawaii	$834	$982	$712	117%	138%	27.5%
29	Idaho	$411	$503	$317	130%	159%	32.1%
35	Illinois	$564	$679	$377	150%	180%	21.4%
33	Indiana	$412	$512	$288	143%	178%	22.7%
10	Iowa	$403	$505	$426	95%	118%	28.0%
6	Kansas	$394	$499	$429	92%	116%	19.3%
37	Kentucky	$383	$476	$262	146%	182%	28.1%
49	Louisiana	$415	$519	$190	218%	273%	28.5%
22	Maine	$455	$590	$418	109%	141%	31.3%
36	Maryland	$561	$672	$373	150%	180%	29.4%
16	Massachussetts	$612	$765	$565	108%	135%	43.2%
12	Michigan	$452	$555	$459	98%	121%	11.2%
5	Minnesota	$470	$599	$532	88%	113%	38.2%
51	Mississippi	$385	$459	$120	321%	383%	23.0%
28	Missouri	$347	$439	$292	119%	150%	26.8%
3	Montana	$352	$469	$438	80%	107%	43.7%
17	Nebraska	$390	$499	$364	107%	137%	38.0%
38	Nevada	$530	$644	$348	152%	185%	21.6%
15	New Hampshire	$571	$718	$550	104%	131%	21.5%
40	New Jersey	$666	$806	$424	157%	190%	20.7%
25	New Mexico	$449	$558	$389	116%	143%	28.9%
20	New York	$687	$796	$577	119%	138%	32.4%
41	North Carolina	$444	$520	$272	163%	191%	25.3%
7	North Dakota	$398	$504	$431	92%	117%	55.9%
26	Ohio	$390	$496	$341	114%	145%	28.8%
27	Oklahoma	$348	$453	$307	113%	148%	34.3%
14	Oregon	$472	$593	$460	103%	129%	19.5%
24	Pennsylvania	$469	$575	$403	116%	143%	19.4%
8	Rhode Island	$539	$648	$554	97%	117%	31.0%
46	South Carolina	$330	$490	$200	165%	245%	28.8%
13	South Dakota	$421	$543	$430	98%	126%	39.9%
47	Tennessee	$405	$495	$185	219%	267%	29.5%
50	Texas	$433	$556	$188	230%	296%	21.2%
11	Utah	$404	$511	$426	95%	120%	27.8%
2	Vermont	$482	$642	$633	76%	101%	22.7%
34	Virginia	$535	$633	$354	151%	179%	30.2%
9	Washington	$505	$640	$546	93%	117%	23.0%
31	West Virginia	$344	$424	$253	136%	167%	24.4%
4	Wisconsin	$443	$554	$517	86%	107%	17.5%
23	Wyoming	$389	$511	$360	108%	142%	23.7%
	U.S. (median)	$449	$557	$377	117%	145%	28.1%

* FMRs are averages of metropolitan FMRs in each state weighted by the number of renter households in each area.

** In states with benefits that vary by region, this reflects benefit in region with largest share of the state's welfare recipients.

BEST AVAILABLE COPY

Declaration Of Mary Ann Dutton

State of Maryland)
) ss:.
County of Montgomery)

MARY ANN DUTTON, Ph.D., being duly sworn, deposes and says as follows:

1. I am a clinical and forensic psychologist with a speciality in interpersonal violence, including domestic violence. My work involves research, clinical and forensic practice, teaching, and consultation. My curriculum vita is attached hereto. I make this affidavit in support of plaintiffs in the above-captioned case.

2. I hold a Ph.D. in Clinical Psychology from the University of Utah. My academic appointments currently include Director of Research, Program and Staff Development of the Institute of Post-Abuse Studies and Treatment, Inc., the Psychiatric Institute of Washington, located in Washington, D.C.; Research Professor, George Washington University Medical School; and Professorial Lecturer, National Law Center, The George Washington University. In addition I maintain a private psychotherapy practice and frequently provide forensic consultation to attorneys on violence related issues in the courts.

3. I have had significant experience with low-income women who have experienced domestic violence. In my current capacities as well as in prior clinical, research, and forensic positions, I have had frequent contact – both direct and indirect – with low-income clients. Indeed, many of the clients at George Washington University's domestic violence clinic are indigent, as are

many of my forensic clients. Because the largest proportion of abusers of heterosexual domestic violence are men and victims are women, I will refer to abusers as "he" and victims as "she"; this is not meant to deny that there can be and are some instances of women as batterers and men as victims.

The Dynamics of Domestic Violence

4. Domestic violence is based on a dynamic of power and control between the abuser and the abused. The abuser attempts to control, through physical violence and psychological abuse, the behavior of the victim or victims. Because of this dynamic, combined with other factors, it is often very difficult for a victim of abuse to leave her batterer. The batterer may control her access to financial support, forcing her, if she considers leaving, to choose between homelessness and further abuse. The batterer may have undermined the victim's self confidence, making it even more difficult for her to live independently. For some women, traumatic reactions to the violence may affect their ability to function effectively and to "get back on their feet" once having left. Further, the batterer may have threatened harm to the victim and her children if the victim attempts to leave the batterer. Remaining in the violent relationship, the victim faces the continued risk of violence, both to herself and her children. Fleeing the relationship is so important means of attempting to eliminate the opportunities for further abuse.

5. Thus, despite the psychological and physical impediments, fleeing an abusive relationship is a common and necessary tactic for avoiding further abuse. Two major factors contribute to the need for flight: (1) safety, and (2) support. Both factors may contribute to victims' need to flee considerable distances – and perhaps relocate to another state – in order to avoid further abuse of herself or her children.

Fleeing for Safety

6. Safety is an important factor in women's flight from abuse. In fleeing for safety, victims seek to remove the physical access necessary to maintain violence. These victims attempt to create distance or space between themselves and the abuser. They may need to relocate to another community or state, to a place where neither the batterer nor others aligned with the batterer can find them. In addition to increasing their safety, putting significant physical distance between themselves and an abuser may facilitate their efforts to break their emotional and psychological ties to the batterer.

7. Relocating to another community or state may also be necessary to protect children. There is significant overlap between domestic violence and child abuse; approximately 50 percent of severe batterers are also severely abusing the children in the home. In addition, children are at physical and psychological risk from witnessing violence in the home. Given this, an awareness of the children's safety is critical. For example, even though the victim and children have moved out the house, the abuser may still know where the children are in school

and may use that knowledge to threaten or harass them, to gain access to their mother, to take them, or even to perpetuate physical and sexual abuse.

8. Women's ability to flee – and to flee great distances – is also critical because the point at which a women leaves may be particularly dangerous. Of those women who have been killed by their batterers, most were killed at the time of or after separation. Separation is a significant risk factor for violence in general, and for lethal violence in particular. Putting significant distance between the victim and the batterer is a common sense way for her to attempt to deal with this dangerous dynamic and to increase her (and her children's) safety post-separation.

Fleeing for Support

9. Women may also need to flee great distances to seek support when separating from a batterer. Social, emotional and psychological support are important factors in helping victims recover from the trauma of abuse. This support may only be available from family and friends located in another community or state.

10. Further, the support of family and friends may be necessary as a domestic violence victim struggles to gain economic independence. Patterns of abuse often involve control of the victim's resources. After leaving her batterer, a women may need a safe place to live until she is able to establish a new home. She may need to rely on her family for childcare while she seeks employment or attends school. To get this necessary assistance, the

victim may need to relocate to be near the family and friends who can provide the support.

The Impact of Durational Residency Requirements

11. By limiting the options available to women who are victims of domestic violence, the durational residency requirement in California Welfare & Institutions Code § 11450.03 will affect women's ability both to flee violence and to maintain their separation from the batterer.

12. As an initial matter, a women may be deterred from leaving an abusive relationship that provides economic support if she realizes that, once in California, her welfare benefit level will be significantly below that available to longer-term residents and significantly below the levels generally deemed necessary to maintain a household at a minimal, subsistence level. If, as is often the case, the victim's family and friends are not able to provide adequate economic support, she may see no choice other than to stay with the batterer.

13. Further, the differential treatment of new residents and the low level of benefits available to many new residents, depending on their state of origin, may foster a women's pattern of returning to her batterer. If she is struggling financially and cannot manage, and particularly if she cannot provide for her children, the victim may be encouraged to return to her abuser. This pattern can be fatal.

14. Indeed, the durational residency requirement may have the effect of colluding with the abuser's efforts to maintain power and control over his victim. Often,

abusers will stress that the victim "can't leave" and "has no place to go." By denying new residents adequate welfare support, the durational residency requirement reinforces this message and provides another tool for a batterer to use in keeping the woman in the house and under his control.

Conclusion

15. There are many economic, social, and psychological factors that serve to perpetuate abusive relationships. For poor women seeking to flee these relationships, the options are already limited. The durational residency requirement further limits poor women's options by impeding their efforts to flee for reasons of safety and support. From a domestic violence perspective, this requirement may perpetuate violence and abuse, perhaps with fatal results for women who are forced to return to an abuser.

/s/ Mary Ann Dutton
Mary Ann Dutton, Ph.D.

Sworn to before me this
31st day of March, 1997

/s/ Linda Lee Fick
Notary Public

Linda Lee Fick Notary Public
State of Maryland
My Commission Expires
September 12, 1997

[Curriculum Vitae Omitted]

Declaration Of Brenda Roe

I, Brenda Roe declare and say:

1. The matters in this declaration are within my personal knowledge and if called upon as a witness I could competently testify thereto.

2. I have lived in Muskogee, Oklahoma for most of my life, although I was born in Orange, California. I am married to Mike Roe and I am currently pregnant. I will be six months pregnant by April 8, 1997.

3. My husband and I lived in Muskogee in a shared apartment with another couple in order to save on expenses. We paid $150.00 per month for our share of the apartment. My husband was working at a steel mill. After living with this couple, they began drinking and having loud parties. We don't drink, so we were forced to move out after they refused to stop their drinking and having loud parties. All of our belongings were destroyed by this other couple and we were forced to live at a motel, paying $95.00 a month. Soon after moving into the motel, Mike lost his job at the steel mill.

4. About one month ago, we decided to move to California so that Mike could find a job, since we had heard that there were more job opportunities in California, especially in construction. Mike had been unable to find a job in Muskogee. We bought bus tickets to Needles, California, which was all we could afford at the time. Our coming to California had nothing to do with TANF grant levels. I don't even know about this type of aid because I have never been on welfare.

5. When we arrived in Needles, we sought help at a local shelter where we were given motel vouchers. Shortly after our arrival, I developed a bladder infection and went to the local community hospital for medical treatment. I was placed on medication, but the following day, I became very sick and had to be taken to the hospital very late in the evening. I became delusional and had a low fever. I have had a prior miscarriage, so my husband and I became very concerned for the well being of our baby. I stayed at the hospital for two days. Since I have had a prior miscarriage, the doctors have told me that I need to be constantly accompanied by someone in case I have to be taken to the hospital.

6. My husband and I went to social services and applied for temporary aid to needy families (TANF), but we were told that we did not qualify because I was not yet six months pregnant, we would only qualify for general relief until the sixth month of pregnancy. I explained my medical condition to the case worker and was told that due to my pregnancy and my medical condition, it would be better if I were in another county that was more able to deal with my medical situation, given that the closest neonatal intensive care unit was in Loma Linda Hospital. The caseworker said she could give us two bus tickets and asked where we wanted to go. We didn't know of any place, but told her Long Beach since we heard there might be jobs out here.

7. We arrived in Long Beach on March 25, 1997 and went to look for a place to stay. We went to several shelters, but none of them would take us because of my pregnancy and my medical condition. We finally ended up at the New Image Emergency Shelter, where we were

given hotel and food vouchers. We applied for aid at the social services office on March 27, 1997, but were told that we would not be eligible for general relief until we had been in the county for 15 days. That will be on April 8th. By that date, I will also be six months pregnant and eligible for TANF. I have now found out that when I applied on April 8th, my husband and I will only be eligible for the Oklahoma grant level of $307.00

8. My husband and I have walked the streets of Long Beach looking at how much rents are and have found that the prices are $300.00 for a studio apartment. These places are very small and I don't know if they would take us with a baby on the way given the limited space. We have also looked at one bedroom apartments and they are much higher ranging from $450.00 to $650.00. There is no way we could make it on the grant level of $307.00. At this point we don't even have money for bus fare. All we have is 55 cents. $307 will not be enough to pay for the rent much less other necessities. My husband is unable to look for work at this time, because he has to stay with me for the time being. The doctor has stated that I cannot be left alone. This is the reason we are having problems finding a shelter that will house us. We will be homeless on Monday afternoon.

9. I do not want to use may real name because I am worried about the stigma that is attached to being on welfare. I am also fearful of what may happen upon the filing of this lawsuit.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed this 31st day of March 1997 at Long Beach, California.

/s/
Brenda Roe

Declaration Of Anna Doe

I, Anna Doe declare and say:

1. The matters in this declaration are within my personal knowledge and if called upon as a witness, I could competently testify thereto.

2. I was born in Baltimore Maryland, and have lived in and out of foster care most of my life. I came to California from Washington, D.C. I was placed in foster care when I was 11 years old and I lived with many families. I became an emancipated minor when I was 17 years old.

3. I most recently worked as a telemarketer selling computer supplies, but this position was very stressful and due to the fact that I am pregnant I had to resign for the health of my baby. I came to California seeking a better life for me and my baby. I believed that I could find a good job here in California so I came to look for employment. I have various skills ranging from typing to brick laying. I have worked as a receptionist, a painter, a brick layer, a typist and telemarketer. I came to California to look for work not to receive a higher grant payment.

4. When I initially arrived in California I lived with friends and I had my job, but the situation became financially difficult for them and me after I couldn't work any longer, so I sought help at a shelter. I have been at the shelter for a month. I have looked for employment in many places, but it is difficult to find a job when I am so far along in the pregnancy.

5. I am five months pregnant I am currently receiving general relief, but I will be eligible for Temporary

Assistance for Needy Families in April, 1997 when I will be six months pregnant.

6. I have looked at rents for apartments and they range from $450-570. I would not be able to make it on rent at that price if I were only to receive the $330 Washington, D.C. grant.

7. I do not want to use my real name because I am worried about the stigma that is attached to being on welfare. I am also fearful of what may happen upon the filing of this lawsuit.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 31st day of March, 1997 at Hollywood, California.

/s/
ANNA DOE

Declaration Of Joel F. Handler

I, JOEL F. HANDLER, declare:

1. I am Richard C. Maxwell Professor of Law at UCLA Law School and UCLA School of Public Policy and Social Research. My general background and credentials are set forth in my resume, a true and correct copy of which is attached. I have done extensive research, writing and study in the field of welfare and poverty from a legal, sociological and policy perspective. I have written or co-authored more than 10 books and numerous articles in that field.

2. Many of the concepts of the contemporary "welfare reform" debate characterized by political leaders as innovations, are in fact centuries old. For example, the differential treatment of the "deserving poor" – those unable to work due to disability – and the "undeserving" or "working" poor – those presumed able to work – dates back to medieval England. Welfare policy toward the latter group has for hundreds of years been influenced by the doctrine of "less eligibility," which holds that life should be made so miserable for "undeserving" welfare recipients that they would rather work than accept public aid. Local community control of welfare policy for the "undeserving" poor is also a very old idea, because English and American governments have shown a marked historical tendency to delegate regulation of "moral" issues to local communities, and poverty has always been associated with immorality. Local communities, since pre-17th century England and the American colonial period, have shown a marked hostility toward migration of poor people, characterizing unemployed

migrants searching for work as vagrants, and enacting exclusionary policies, such as requiring newcomers to post a bond as a condition of settling.

3. The stigmatizing association between poverty and immoral lack of motivation to work is also timeless. Welfare policy has always been heavily influenced by the faulty assumption that work sufficient to provide for the necessaries of life is available for those who simply have the right attitude.

4. Current welfare policy is based on an assumed distinction between "welfare" and "work." (In this declaration, I use the term "welfare" to refer primarily to AFDC and its successor program.) Although "work" is still conceived of as a full-time, steady career employment at decent wages and with benefits, this is becoming increasingly untrue for significant portions of the labor force. Real earnings of the less skilled, less educated workers have declined substantially since 1973 despite economic expansion and aggregate growth in employment. From 1973 to 1989, median income (in 1989 dollars) for men with high school diplomas declined from $30,252 to $21,650; and for women, from $11,087 to $10,439. The decline in income was worse for those with one to three years of high school: for men, median income declined from $24,079 to $14,439; and median income for women with the same level of education declined from $7,920 to $6,752.

5. Not only is there a spread of low wage jobs, but the nature of employment is shifting from full-time work for a single employer to various forms of "contingent" work: temporary, contract of other types of flexible work

arrangements that lack job security. The General Accounting Office estimated that in 1988 there were 32 million contingent workers, almost a quarter of the work force. While contingent work is desirable to some, for many others it is a disguised form of unemployment. *Involuntary* part-time work increased 45 percent during the 1980-83 recession, and 13 percent overall during the 1980s. Part-time jobs are more likely to be dead end and of shorter duration than full-time jobs.

6. The prevailing myth about welfare is that AFDC recipients are primarily young black women who have lots of children, are long-term dependent, and pass this dependency on from generation to generation. Such generalizations are false. According to the 1994 Green Book (U.S. House of Representatives Committee on Ways and Means, *1994 Green Book: Background Material and Data on Programs Within the Jurisdiction of the Committee on Ways and Means*), only 37.2 percent of the AFDC population was African American. The average AFDC family is about the same size or slightly smaller than the average non-AFDC family. From 1969 to 1992, the average AFDC family size decreased from 4.0 to 2.9 persons; 72.7 percent of AFDC families consist of one or two children, and 90 percent of three or fewer children.

7. Finally, long-term welfare "dependency" is the exception rather than the rule. The myth of a predominance of long-term welfare "dependents" is perpetuated in part by the fact that most empirical studies of AFDC are based on annual data, which provides a somewhat misleading "snapshot" that overstates the proportion of welfare recipients who are long-term. The following example from the 1992 Green Book points out why:

> Consider a 13-bed hospital in which 12 beds are occupied for an entire year by 12 chronically ill patients, while the other bed is used by 52 patients, each of whom stays exactly 1 week. On any given day, a hospital census would find that about 85 percent of the patients ($^{12}/_{13}$) were in the midst of long spells of hospitalization. Nevertheless, viewed over the course of a year, short-term use clearly dominates: out of 64 patients using hospital services, about 80 percent ($^{52}/_{64}$) spent only 1 week in the hospital.

Yet even the annual data, which will overstate the proportion of long-term AFDC recipients, shows that half have been on welfare (though not necessarily continuously) for two years or less, and nearly two-thirds are on welfare four years or less. Moreover, research of monthly data shows a very dynamic welfare population, with recipients going on and off welfare numerous times within these time frames. Half the recipients exit AFDC within the first year and about three quarters within two years. The overall picture is that one group consists of people who receive welfare for short periods of time and never return; a middle group cycles on and off, some for short periods and others for longer periods of no more than five years; and a third group, which stays on continuously for longer periods, but amounts to no more than 15 percent of the total AFDC population.

8. These facts are inconsistent with the view that welfare benefits provide a significant "incentive" for people to move to high benefit states. Rather, the evidence of recipients leaving AFDC or cycling on and off AFDC tends more strongly to show that AFDC recipients are motivated to seek work. In fact, empirical studies confirm

that, against considerable odds, the majority of welfare recipients work while they are on welfare, trying over and over to find and keep jobs, and eventually leave welfare through work. AFDC recipients treat welfare not as an incentive, but rather as a form of unemployment insurance; the majority relies on welfare simply because they cannot find jobs that pay enough to support their families.

9. Analogous to the "welfare magnet" theory is the false perception that AFDC mothers choose to have children in order to capitalize on increased AFDC benefits. Yet there is no evidence for that perception. Again, AFDC families are the same size or slightly smaller than non-AFDC families on average. If AFDC benefits encouraged having children, we would expect to see larger family size and higher teen birth rates in high benefit states, but that is not the case. AFDC mothers are *less* likely than non-AFDC mothers to have multiple pregnancies and *more* likely to use contraception.

10. An important study (Levine and Zimmerman, 1996) of the alleged "welfare magnet" hypothesis found a distinct absence of empirical support for the proposition that AFDC recipients tend to move from lower to higher benefit states, or to remain in higher benefit states. The study analyzed annual demographic data from the National Longitudinal Study of Youth, which has collected close to 19,000 data observations on 14 to 21 year-olds each year from 1979 to 1992. The study found that only 3.8 percent of the AFDC-eligible population moved from one state to another, and only 1.8 percent moved from a state offering lower to a state offer higher AFDC benefits. In contrast, out of AFDC non-eligible people, 6.8

percent moved to a different state, 3.4 percent from a lower to a higher benefit state. Isolating the percentages of people who moved from one state to another, non-AFDC-eligible people were more likely to move to higher benefit states than AFDC-eligible people percentages of people who moved from one state to another, non-AFDC-eligible people were more likely to move to higher benefit states than AFDC-eligible people (50% of *those who moved* compared to 42%) – exactly the opposite of the correlation that would be predicted by a "welfare magnet" effect. It is also noteworthy that less than half of the AFDC-eligible population that moved to a higher-benefit state actually went on welfare within the first two years of their move.

11. It is my opinion, based on many years of research in the field and reviewing numerous studies on the subject that the "welfare magnet" hypothesis is myth rather than reality. The available evidence supports the contrary view, that poor people move to find work or for a variety of other reasons unrelated to the size of welfare benefits. Although it is often expounded with the vocabulary of modern economics, or with popular political terminology like "personal responsibility," the view that welfare benefits motivate such important life decisions as whether or where to find work, or whether to have a child, is founded far more on the prejudice that poverty is caused by an immoral lack of desire to work than on real behavioral evidence. Accordingly, the welfare magnet theory is a form of invidious discrimination against the poor.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 25th day of April, 1997, at Los Angeles, California.

/s/ Joel F. Handler
JOEL F. HANDLER

[Curriculum Vitae Omitted]

Declaration Of John Hartman

I, John Hartman, hereby declares as follows:

1. I am an Assistant Professor of Sociology at Columbia University and have a specialization in social science statistics.

2. I have been involved in the collection and analysis of social welfare data for the last ten years. Between 1985 and 1989 I worked with Russell L. Hanson of Indiana University on a Foundation project concerned with the expansion and contraction of social welfare spending at the state-level in the United States. From 1992 to the present I have been engaged in research on the interstate migration patterns of the indigent.

3. I am familiar with the recent changes in California's welfare program, particularly the new multi-tier durational residency requirement for Temporary Assistance to Needy Families (TANF) that limits the amount of benefits available to new California residents for the first 12 months of their residency in California to the level of benefits available to them in their previous state of residence.

4. While there is relatively little literature on the migration of the indigent to receive additional general assistance benefits, there is a substantial literature in economics and sociology concerning migration and Aid to Families with Dependent Children (AFDC) benefits. Given that benefit levels are argued by state policymakers to determine the migration patterns for both groups of poor people (and thus similar processes are at

work in both cases), I will locate the general assistance arguments within the AFDC framework.

5. Although they are not new, policymakers' concerns about the magnetic draw of welfare benefits have intensified recently. Two developments may explain this. Residency requirements were declared unconstitutional in 1969 by the U.S. Supreme Court, depriving states and localities of their favorite means of excluding poor migrants from the welfare rolls. About the same time, economic changes spurred substantial movement toward the Sunbelt. Large numbers of people, some of them poor, left their home states in search of jobs and other amenities in the South and West. As a result of this movement, one-third of the nation's population now lives outside of the state or county in which they were born, according to the Bureau of the Census.[1] Given this shift in population, it is not surprising that state officials worry about attracting too many poor people and seek ways of repelling them.

6. To justify exclusionary measures, state and local policymakers have tried to document the effect of massive internal migration on welfare rolls. Wisconsin provides a good example of how this may be done. The state recently commissioned a study by James Wahner and Jerome Stepaniak, who examined 74,763 AFDC cases opened between September, 1985 and August, 1988.[2]

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[1] Bureau of the Census, 1992. *1990 Census of Population and Housing: Summary Social, Economic, and Housing Characteristics*, United States. Washington, D.C: U.S. Department of Commerce, 1990 CHP-5-1.

[2] Corbett, Thomas. 1991. "The Wisconsin welfare magnet debate: What is an ordinary member of the tribe to do when the witch doctors disagree?" *Focus* 13,3: 19-28.

They discovered that twenty-nine percent of the new cases involved families headed by non-natives, i.e. individuals who were not lifelong residents of Wisconsin. Similar studies in other states discover the same thing: a substantial portion of welfare recipients are migrants whose behavior ostensibly reveals a preference for generous welfare benefits.[3]

7. Studies of the residential origin of AFDC recipients make good political headlines, but they are not very scientific. Policymakers would undoubtedly discover that a substantial percentage of state driver's licenses are held by non-natives, if they ordered a study of licensee's backgrounds. This is surely not because people are attracted to states with easy examinations and road tests. Rather, it is an incidental effect of interstate migration, and it is not the only one. Precisely because migration is so common, non-natives are bound to represent a significant fraction of those who are affected by state policies of any kind, not just welfare.[4] Only if non-natives are disproportionately poor is there any reason to think that benefits actually induce migration.

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[3] Many state benefit levels are woefully inadequate. Compared to them, states that make higher payments are "generous." My use of the terms is relative.

[4] For that matter, non-natives will comprise a significant fraction of those who pay taxes in a state, taxes that help finance goods and services used more heavily by natives. However, governors do not seem inclined to offer rebates to newcomers, except perhaps as part of a package to woo business investors (See Russell L. Hanson, 1993, "Bidding for Business: A Second War Between the States?" *Economic Development Quarterly* 7,2:183-198.)

8. With regard to the purported magnetic effects of welfare, then, the relevant question is not "What proportion of AFDC recipients are migrants?", but rather, "What proportion of migrants become AFDC recipients?" Even more precisely, the question is "What proportion of migrants relocated in order to obtain better benefits than were available in their previous state of residence?" – a formulation that highlights the importance of people's motives for moving from one state to another. Such motives vary; they include the desire to be near family and friends, to have better job opportunities, or to live in a cleaner, safer environment, etc. The motives may also include the availability of better welfare benefits, as politicians claim, though the evidence in support of this claim is surprisingly thin, as we shall see.

9. A related question involves the retentive power of welfare benefits. High benefits may hold the poor in place, deterring migration to states with better economic conditions or other attractions. Indeed, Peterson and Rom[5] suggest that the number of poor immigrants drawn to states with high benefits may be substantially less than the number of poor who refuse to leave such states even after employment prospects deteriorate and wages stagnate or decline. Perhaps this is because the poor want to reside in states with liberal benefits, just in case they need assistance at some future date. However, the clear implication of Peterson and Rom's claim is that poor people in liberal states actually receive welfare benefits, and these

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[5] Peterson, Paul E. and Mark Rom. 1990. *Welfare Magnets: A new Case for National Standards*. Washington, D.C.: The Brookings Institution. (See page 20).

benefits overcome the attraction of other states' economic, social, or political opportunities.

10. Here again the question of motivation comes to the fore. Do poor individuals choose to remain in place because they have access to good welfare benefits? Or do they decide against moving out of a desire to remain close to family, friends, or labor markets that are depressed, but nevertheless familiar and hence easier to negotiate? Subsequent receipt of welfare benefits would then be incidental to people's choice of residence; having decided to stay, and finding themselves in need, poor people avail themselves of public assistance, though that may not be why they decided to stay in the first place.

11. Obviously, an accurate assessment of the magnetic effects of generous welfare benefits depends on knowing why some poor people stay put, while others move across state lines. Unfortunately, there are no systematic studies of the residential choices of the indigent population; all we have are the "revealed preferences" of poor people, as expressed in their geographic settlement patterns. These revealed preferences cannot confirm the hypothesized effects of welfare benefits, since they do not tell us why people chose to live where they do. Even if we observe behavior that is consistent with the alleged effects, we cannot be certain that high welfare benefits were the primary reason why poor people moved to high benefit states, and stayed there.

12. On the other hand, revealed preferences can be helpful in disconfirming the welfare magnet hypothesis. If poor people do not move to states with high benefits, or if they move to such states but do not apply for

assistance, the attractive power of high benefits cannot be very strong, suspicions of state policymakers to the contrary notwithstanding. Similarly, if poor people who continue to reside in high benefit states show no great inclination to draw benefits, then it is hard to see how they are being held in place by the retentive power of welfare magnets. Hence, we can at least use information about settlement patterns to examine the plausibility of the welfare magnet hypothesis.

13. Recently there have been seven large-scale attempts to measure the magnetic effect of welfare benefits.[6] The best-known, and least satisfactory, study is that by Peterson and Rom, who examined the effect of welfare benefit levels on changes in state poverty rates, and vice-versa.[7] Using aggregate data, Peterson and Rom found that states with high benefits experienced unusually large increases in poverty from 1970-1975, 1975-1980, and 1980-1985. The increases in poverty rates could not be explained by increases in unemployment or declines in

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[6] Larry Long provides a good review of early research on this problem. See Long, "Poverty Status and Receipt of Welfare Among Migrants and Nonmigrants in Large Cites." *American Sociological Review* 39: 1: 46-56. Cebula's provides a fairly comprehensive and useful update in his test, *The Determinants of Human Migration*. Lexington, MA: D.C. Heath and Company. A summary of recent findings can be found in Nathan Glazer, 1987, *Migration and Welfare*, prepared for U.S. Department of Health and Human Services, as part of contract number HHS-100-86-0021 (David Ellwood and Robert Lerman, principal investigators).

[7] Peterson, Paul E. and Mark Rom. 1990. Welfare Magnets: *A New Case for National Standards*. Washington, D.C.: The Brookings Institution.

wages and personal income. Hence Peterson and Rom concluded that changes in aggregate poverty rates must have been at least partially the result of individuals' decision to move to states with higher benefit levels, or remain there upon losing their jobs or other sources of income.

14. Peterson and Rom do not actually show that poor people migrate to high benefit states, let alone that migrants move in order to receive better benefits. Indeed, they cannot, given their reliance on aggregate data. Peterson and Rom resort to ecological inference to make their case: since the observed outcome is consistent with the migration of poor people in search of better benefits, it must have occurred because poor people are attracted to liberal states and remain there, once settled. The logical pitfalls of this approach are obvious. The same outcome could be the result of any number of decisionmaking processes, some of them not even involving the behavior of poor people. For example, poverty rates may have increased because middle and upper income groups left for better opportunities elsewhere, opportunities not available to their less fortunate brethren. The fact that different processes operating at the individual level can produce identical outcomes in the aggregate has generally led social scientists to avoid the sort of argument the [sic] Peterson and Rom advance.

15. Three recent studies of migration and welfare are better, insofar as they employ data about individuals and their behavior. Unfortunately, these studies suffer

from other problems. Rebecca Blank[8] tested the combined impact of welfare benefits and wages on migration between ten regions, using information from 2,459 respondents in the March, 1979, Current Population Survey. But she did not attempt to analyze the independent effect of welfare benefits on migration, nor did she examine migration patterns between states within the same region. Consequently, the findings of her study do not directly address the welfare magnet hypothesis.

16. A study by Gramlich and Laren used data from the Panel Study of Income Dynamics (PSID), and a subsample of the 1980 Census.[9] Gramlich and Laren examined the behavior of 1220 female-headed families on AFDC over a five-year interval of time. They concluded that "migration in response to AFDC benefit levels does seem to take place though very sluggishly".[10] Indeed, the process was so sluggish that it would take about forty-five years for half of their respondents to end up in high benefit states, starting from a situation in which all states paid equal benefits, and then introducing benefit differentials comparable to those observed in 1980.

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[8] Blank, Rebecca. 1985. "The Impact of State Economic Differentials on Household Welfare and Labor Force Behavior." *Journal of Public Economics* 28: 25-58.

[9] Gramlich, Edward M. and Deborah S. Laren. 1984. "Migration and Income Distribution Responsibilities." *Journal of Human Resources* 19: 489-511.

[10] See Edward M. Gramlich, Edward M. [sic] and Deborah S. Laren. 1984. "Migration and Income Distribution Responsibilities." *Journal of Human Resources* 19 at page 491.

17. Sophisticated though it is, the study by Gramlich and Laren has its faults. The PSID sample has severe problems of attrition. Those most likely to be lost at each wave of the panel are individuals who move out of state. Consequently, the PSID tends to lose data on precisely those people whose behavior is at the center of the dispute about welfare's magnetic effects. Supplementing the PSID sample with 1980 Census data is not a solution to this problem. In fact, use of the 1980 Census leads to the opposite problem, since it defines respondents' prior home as the state of residence in 1975.

18. Anyone who moved to a high benefit state in the in the intervening five years and was on AFDC in 1980 could have been lured by the expectation of generous assistance, according to this measure. Yet the magnetic effects of welfare surely operate in the short run, not over the long haul; a 1979 migrant might have been drawn by the prospect of good benefits in 1980, but not someone who moved in 1976, four years before 1980 benefits were set.[11]

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[11] This criticism would also hold for the Frey, Liew, Xie and Carlson (1995) study which located "very small" welfare magnet effects using data from the 1990 census. In addition, the Frey, et al study employed few controls for individual characteristics and, in fact, tested the welfare magnet hypothesis by using certain age groups (25-29, 30-34, etc) of the entire poverty population in 1990. Walker (1994) also uses census data to test this hypothesis, but limits his attention to adjacent counties as part of effort to control for migration costs. The above references are: Frey, William H., Kao-Lee Leaw, Yu Xie and Marcia J. Carlson. 1995. "Interstate Migration of the US Population: Immigration 'Pushes' and Welfare Magnet 'Pulls.' " Population Studies Center, Research Report no. 95-331. And:

19. The most promising study to date uses information gathered in the Study of Income and Program Participation, or SIPP. Rebecca Clark finds some evidence of low-income mothers' willingness to move to neighboring states in order to obtain better benefits, though these women apparently do not consider longer moves that would yield even higher benefits. As Clark (1992: 10) puts it, solo mothers on welfare "who live near a state with substantially higher payments than the state they live in are more likely to migrate than those whose states are relatively more generous." Otherwise, "the *level of welfare payments* in a state relative to all other states *does not significantly affect migration.*" (Both emphases are added.)

20. Unfortunately, the number of state-to-state movers in the SIPP data is small, which makes it difficult to test hypotheses about migration. About 15% of the typical SIPP panel move during a twelve month period. However, only 1.6% of the SIPP panel moves from one state to another in the course of a year, whereas about 3% of the Current Population Survey sample consists of state-to-state movers.[12] Thus, SIPP under samples the group of people whose behavior is most relevant to hypotheses about welfare's magnetism. Since the number of state-to-state movers is small to begin with, the under

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Walker, James R. 1994. "Migration among Low-Income Households: Helping the Witch Doctors Reach Consensus." Institute for Research on Poverty Discussion Paper no. 1031-94, University of Wisconsin at Madison.

[12] DeAre, Diana. 1990. "Longitudinal Migration Data from the Survey of Income and Program Participation." *Perspectives on Migration Analysis, Current Population Reports Special Studies Series* P-23, No. 166, pp. 13-23.

sampling of SIPP produces too few cases for reliable statistical analysis, particularly when serious problems of panel attrition are taken into account.

21. In am convinced that Current Population Surveys provide the best available source of information for a study of welfare's magnetic effects. These surveys contain information on respondents' current state of residence, previous state of residence, income, occupational history, AFDC benefits received, public assistance received, and employment status. The samples are very large, generally including about 56,500 households (or between 154,492 and 181,488 individuals), and separate samples are available for 1982, 1983, 1984, 1986, 1987, and 1988.[13] The large sample sizes include a substantial number of people who move from one state to another, and because it is known where these people live it is easy to add contextual information on employment, wages, welfare benefits and other possible motives for moving.

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[13] Current Population Surveys prior to 1982 did not report a person's prior state of residence, at least not in data that have been made available to the public. The 1985 survey used a five-year window of migration, like the Census, and I elected not to use it. Surveys after 1988 could be used to extend the analysis, but the analysis would have to contend with the far-reaching effects on AFDC of the 1988 Family Support Act. The FSA induced sweeping changes in some states' programs, which may have altered the putative impact of benefits on migration. Thus, I limited the analysis to the years between 1981, when the Omnibus Reconciliation Act established a new means test on gross income for AFDC, and 1989, when the Family Support Act went into effect. The two actions of Congress define a stable period of state programming.

22. Most importantly, the surveys include sizable numbers of those who are most likely to consider welfare benefits when deciding where to live: poor women of childbearing age. Under this definition, this group includes all women between the ages of fourteen and forty-five who live in households with a total income less than or equal to 125% of the poverty line.[14] This is the group from which AFDC recipients are potentially drawn, and AFDC is the central focus of the welfare magnet hypothesis and political controversy surrounding it.[15]

23. The CPS can be used to test the following proposition about the magnetic effects of welfare benefits: All else equal, poor women of childbearing age are likely to

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[14] I further limited the analysis by excluding poor women of childbearing age who live in Alaska and Hawaii, or who recently came to one of the forty-eight states from another country. For these women it is hard to see how the benefit differentials induce long-distance migration. I also excluded residents of the District of Columbia, concentrating on those people whose residential decisions might be subject to the action of state policymakers, whose place in hypotheses about the magnetic effects of welfare is essential.

[15] I include poor women who do not have children at the time of survey because they may be pregnant, at risk of becoming pregnant, or wanting to become pregnant. See Gregory Acs (1993) "The Impact of AFDC on Young Women's Childbearing Decisions." Institute for Research on Poverty Discussion Paper, for a discussion of the impact of benefit levels on family formation and size. Poor women without children are freer to move, and hence to respond to welfare benefit differentials. By including them, the sample gives the welfare magnet hypothesis every chance to succeed.

move from states that pay low benefits to states with higher AFDC payments.[16]

24. Information from 48,192 respondents was used in the analysis. Table 1 lists the number of respondents according to the year in which they were interviewed. It also indicates how many respondents moved from another state in the year preceding their interview. Obviously, interstate migration rarely occurs among poor women of childbearing age. In any given year about five percent of these women move across state lines, and the rate of migration seems to be slowing with the passage of time.

Table One

Poor Women of Childbearing Age,
CPS 1982-1984, 1986-1988

Year	Number	Non-migrant	Migrant	Rate of Migration
1982	8,146	7,721	425	.052
1983	8,670	8,220	450	.052
1984	8,712	8,212	407	.047
1986	7,658	7,283	365	.048
1987	7,620	7,275	345	.045
1988	7,396	7,068	328	.044
Pool	48,192	45,779	2,320	.048

Note: All figures in this table and the following analyses are unweighted.

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[16] For an extended discussion on this point, see Russell L. Hanson and John Hartman, 1994, "Do 'Welfare Magnets' Attract? The New Federalism and Migration During the 1980s," Institute for Research on Poverty, Discussion Paper #1028-94.

25. What distinguishes migrants from nonmigrants? In general, poor women migrants tend to be young, white, high school graduates with small families. They also have incomes near or slightly above the poverty threshold, providing the wherewithal for moving. These migrants do not fit the stereotypical image of a footloose underclass pursuing the most lucrative welfare benefits. They are the children and women next door, so to speak, not the "welfare queens" of political lore.

26. Poor women who are older, have large families, and earn little or no income are less likely to move. The number of children makes it harder for these women to disengage from a community, and a lack of education may dampen their awareness of opportunities elsewhere. Moreover, such women may not be able to afford an interstate move, given their dire financial straits: these women live in households with incomes well below the poverty line. The fact that nonmigrants come disproportionately from the ranks of minority women for whom congenial residential alternatives are limited further contributes to the inertia.

27. The low rates of migration reported in Table 1 suggest that welfare benefits have only a weak attraction for potential AFDC recipients. If poor women were aggressively seeking higher benefits, Table 1 would show much higher rates of migration than it does. By itself, this finding does not disprove the welfare magnet hypothesis, however, since low rates of migration can still produce large flows of population.

28. More damaging to the welfare magnet hypothesis is the fact that women who do migrate show no

preference for states with high benefits. The 2,320 migrant poor women in the pool of respondents were as likely to settle in states with low benefits as states with high benefits. This is evident in Table 2, which summarizes the results of an OLS regression analysis of the residential choices of 48,192 poor women of child rearing age.

Table Two

Migration Choices of Poor Women of Childbearing Age

Variable	Parameter Estimate	Standard Error	t Value	Pr t=0
Intercept	0.00201600	0.00006562	30.727	0.0001
Wage differential*	-0.00000036	0.00000048	-0.743	0.4577
Welfare benefit differential*	-0.00000006	0.00000033	-0.168	0.8663
Cost of Living differential	-0.00000080	0.00000005	-16.972	0.0001
Model Fit				
R-square	.021			
Adj. R-square	.021			
Root MSE	.004			
Number of State Pairs 13,633				

* Adjusted for cost of moving

29. The estimates presented in Table 2 are based on a simple "gravity model" of residential choice.[17] Gravity models assume that migration between one state and another is directly proportional to the size of the population of the sending state, and inversely proportional to the distance between the sending and receiving states. The model can be altered by adding other considerations, e.g. the level of welfare payments in receiving states, to see if they raise or lower the natural flow of population stipulated by the gravity model.

30. The above adaptation of the gravity model has a simple logic. In deciding where to live, a poor woman can choose to remain where she is, or move to one of forty-seven other states in the continental U.S.[18] Differences in welfare benefits enter into her calculation, according to the welfare magnet hypothesis: all else being equal, states with higher benefits will be more attractive than states with lower benefits. Indeed, the state with the highest benefit will be most attractive of all, and poor women will be drawn to it in large numbers unless countervailing considerations come into play.

31. The same will be true of wage differentials. Public assistance is one possible source of income; wages are another, and often better, means of support. Thus, poor women who base their choice of residence primarily on prospective income must take prevailing wage levels into

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[17] Cadwallader, Martin. 1992. *Migration and Residential Mobility: Macro and Micro Approaches*. Madison, WI: University of Wisconsin Press.

[18] Alaska and Hawaii are excluded from this analysis, as the costs of moving far exceed any potential gain in benefits.

account. This is true even for those inclined to trade income for leisure, as some economists put it. Such women may opt for welfare as their primary source of income, but for the majority of them "spells" on welfare are fairly short. Public assistance payments must therefore be replaced by income from another source, e.g. wages, at least until a return to welfare becomes possible. Thus, the prospect of earning higher wages ought to influence location decisions, just as the generosity of public assistance ostensibly does.

32. Income is not the only consideration, however. Often states with better wages and liberal AFDC benefits have higher costs of living, which reduces their attractiveness somewhat. Conversely, costs of living are often lower in states with low wages and niggardly benefits. Thus, the net improvement in living standards will be the deciding factor, after the costs of moving are taken into account. Such costs include separation from family and friends, as well as the financial expense of transporting family and personal belongings across state lines.[19]

33. The decisionmaking can be summarized in the following way:

$$[1.0]M_{ijt} = a_1 + b_1BENEFIT_{ijt} + b_2WAGE_{ijt} + b_3COL_{ijt}$$

where

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[19] Given the generally low benefits paid to AFDC recipients, interstate welfare benefit differentials will necessarily be small. The costs of moving can easily exceed benefit improvements even when the latter are tallied over the course of a year. Surprisingly few studies of welfare magnetism factor these costs into the equation.

M_{ijt} = the proportion of poor women of childbearing age who move from states i to j in the year preceding the CPS interview;

$BENEFIT_{ijt}$ = the difference in benefits available in states i and j at the time of interview, adjusted for moving costs;[20]

$WAGE_{ijt}$ = the difference in wages available in states i and j at the time of interview, adjusted for moving costs;[21]

COL_{ijt} = is the difference in cost of living for states i and j at the time of interview, as calculated by

[20] The nominal benefit is the maximum monthly payment to an AFDC family of three with no income, plus the value of Food Stamps such a family would receive. The data are from various editions of Background Material and Data on Programs within the Jurisdiction of the Committee on Ways and Means, a publication of the U.S. House of Representatives. The nominal benefit is divided by the logged value of the distance in miles between the major city in each state, on the notion that moving costs (social, psychological and monetary) are a function of distance. In the general population, around a third of all interstate moves are to a geographically contiguous state and therefore involve short distances. See Larry Sink (1992) "Trends in Internal Migration in the United States." In *Population Trends in the 1980s, Current Population Reports, Special Studies, Series P-23, No. 175*. Washington, DC: U.S. Department of Commerce, Bureau of the Census.

[21] The nominal value of WAGE is the average weekly wage in a state's manufacturing sector, as reported in various issues of Employment and Earnings, a publication of the U.S. Department of Labor. This is divided by the logged value of the distance between major cities, as described in the preceding note.

McMahon and Chang, using 1981 as the base year.[22]

i = state of residence in year prior to survey
j = state of residence at time of survey
t = year of survey (1982, 1983, 1984, 1986, 1987, 1988)

34. Model 2 is applied to a 48 x 48 table of states, in which current state of residence forms one dimension, and previous state of residence is the other. For women who do not move, the states are identical; i = j, and these cases are classified into the diagonal elements of the table. The off-diagonals report population flows from i to j, and from j to i, respectively. Each of these cells records the observed rate of migration by poor women from one state to another, calculated for the pooled sample of 48,192.

35. The table contains 2,304 cells in the table, but since we analyze six Current Population Surveys, there are a total 13,824 units of analysis (if we ignore missing data problems). For example, there are six cells containing a total of 4,804 respondents who live in California at the time of survey. twenty, or 0.6%, of them had recently moved from Texas, where welfare benefits were half the level of assistance in California, and wages were also substantially lower. Another six cells include 21 poor women who moved from California to Texas, where living costs were about fifteen percent lower. For the years in our sample, there were a total of 4,804 respondents in

[22] McMahon, Walter W. and Shao-Chung Chang. 1991. *Geographical Cost of Living Differences: Interstate and Intrastate, Update 1991*. Normal, IL: Center for the Study of Educational Finance, Illinois State University.

the California subsample, so the rate of immigration to Texas was about 0.4%. The net exchange in our sample was one person, a finding that is consistent with other studies tracking the flow of population into, and out of, California.

36. As Cebula notes, it is important to consider immigration and emigration separately when analyzing the impact of welfare benefit differentials on residential choice.[23] If the welfare magnet hypothesis is true, there should be an exodus from low benefit states to areas where benefits are higher, reflecting the attraction of high benefits. Movement out of high benefit states should be minimal, since the hypothesis also refers to the holding power of liberal welfare benefits, i.e. their depressing effect on emigration.

37. Table 2 shows no support for the welfare magnet hypothesis, however. The proportion of poor women of child bearing age who move from one state to another is unaffected by welfare benefit differentials, adjusted from moving costs. Such women are as likely to move to states with low benefits as they are to settle in states with high benefits. Wage differentials are similarly unimportant in poor women's residential choices: they are as likely to move to states with low wages as they are to settle in states with high wages. Evidently, interstate differences in welfare benefits and wages are too small to affect residential choices when the costs of moving are also considered.

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[23] Cebula, Richard J. 1979. *The Determinants of Human Migration*. Lexington, MA: D.C. Heath and Company.

38. Poor women's sensitivity to costs is clearly registered in Table 2, where spatial differences in cost-of-living are negatively and significantly related to residential choices. Our sample of respondents stayed where they were or else moved to states with lower living costs. In so doing, our respondents avoided states with higher benefits and wages, perhaps because they understood that moving to these states would not necessarily increase their purchasing power. There is no gain in purchasing power if higher prices for food, clothing and shelter consume any increase in income from wages or public assistance. In fact, purchasing power may fall upon moving to states with better wages and nominally higher benefits, if the cost of living is dramatically higher. This is a possibility that is generally overlooked by those who worry about the magnetic effects of welfare on the behavior of poor women.

39. We now turn to a second question: among a given state's poverty population, are recent migrants more likely than long-term residents to receive public assistance benefits? To answer this question I used the Current Population Surveys once more. This time, the statistical inquiries were limited to the most recent of the Annual Demographic Survey, the March 1994 installment. I included in the sample all individuals who could potentially qualify for such benefits: the entire adult population, in all fifty states and the District of Columbia. This initial sample provided over 112,000 cases.

40. The present efforts to model public assistance recipiency builds on similar models of AFDC participation. Thus, the model controls for age, race, sex and education along with covariates for state of residence and

poverty status. In these preliminary models the covariates for state of residence and poverty extracted (or controlled for) the impact of being poor and/or residing in various states. In these "fixed effect" models I uncovered no significant difference for being a recent migrant versus being a long-term resident. The fixed effect models were estimated with both a logit and a probit link function and with a binomial error variance. The "mover" variable was consistently insignificant.

41. The second set of estimates modelled the impact of various states of residence by using a random effects model. These estimates also uncovered no greater propensity among recent migrants, versus long-term residents, to receive public assistance monies.

42. These same models were estimated a third way: on a state-by-state basis with both logit and probit link functions. In these runs only Massachusetts and Ohio were found to have significant "mover" effects. For the state of Massachusetts, migrants were significantly *less* likely to receive funds. For Ohio, being a mover led to a very slight but significant increase in the likelihood of recipiency. It is important to note that in the other 49 locations, migration effects were insignificant and the two significant effects (i.e.: Ohio and Massachusetts) were in opposing directions.

43. The estimates for the state of California illustrate the larger pattern of results for the state-by-state estimates and are reported in Table Four. They have substantive importance, as well.

[Table Four Omitted]

44. The sample is limited to individuals in the state of California and who are below the poverty line in March of 1994. The variables in the model are as follows:

MOVER is coded one if an individual moved to the MSTSTATE from another state in the previous year;

AGE is the respondent's years of age;

RACE2 is coded one if the respondent is African-American, Asian or Hispanic;

INTERCEPT is where the regression line crosses the y axis. This parameter is fixed.

EDUC is a measure of the respondent's level of education.

PAWYN is the dependent variable and is coded one if the respondent currently received cash public assistance.

45. The MOVER variable in Table Four is weak and has a large standard error, thus it is remote from any standard level of statistical significance. Indeed, the chi-square is a minuscule .10 and the likelihood of a chance occurrence of the coefficient is very high at 75%. There is *no support* for the argument that recent poor migrants to California are more likely to be program recipients than long-term residents.

46. In order to capture the immense state-by-state variation in such programs and the complex way in which parameters might vary across states, I turned to a random effects model which has been used with some

frequency in the biomedical literature.[24] Such models are often referred to as empirical Bayes models by statisticians. This fourth framework enabled the estimation of differing slopes and intercepts across states. This set of estimates used a smaller number of cases – those who were currently at or below the poverty line and could qualify for assistance programs. Our sample size was reduced to just over 14,000 cases. Table Five provides our estimates:

[Table Five Omitted]

47. The variable names in the table are as follows:

MSTSTATE indicates the respondent's current state of residence as of March 1994. The coding use by the CPS follows that employed in the 1960 Census and moves from the Northeast (11 = Maine) and through the Midwest to the Far West (93 = California). In this coding, California is state number 93 and state number 14 is Massachusetts. The California's coefficient is -.09, a number which is not significantly different from zero. Massachusetts has the only significant coefficient for "mover" and it is negative.

MOVER is coded one if an individual moved to the MSTSTATE from another state in the previous year;

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[24] See Laird, N.M. and J.H. Ware (1982) "Random Effects Models for Longitudinal Data," *Biometrics*, 38, 963-974. Rutter, C.M. and Elashoff, R.M. (1994) "Analysis of Longitudinal Data: Random Coefficient Regression Modelling," *Statistics in Medicine*, 13, 1211-1231.

AGE is the respondent's years of age;

RACE2 is coded one if the respondent is African-American, Asian or Hispanic;

INTERCEPT is where the regression line crosses the y axis. This parameter is free to vary across states.

PAWYN is the dependent variable and is coded one if the respondent currently received cash public assistance.

48. The results are clear cut: in only one state do we find a significant impact of migration on recipiency and it is negative. In Massachusetts, being a recent migrant to the state slightly reduces likelihood that one will receive assistance.

49. In summary, welfare benefits appear to exert *no impact* on the residential choices made by poor people. And, when the indigent relocate, they have *no greater propensity* to consume welfare benefits than the poor who are already within a state's borders.

I declare under penalty of perjury that, to the best of my knowledge, information and belief, the foregoing is true and correct. Executed this 24 day of April 1997 at 2:24.

/s/ John Hartman
John Hartman

Affidavit Of Joan Zorza

[ATTORNEYS' NAMES OMITTED]

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BRENDA ROE and ANNA DOE, on behalf of themselves and all others similarly situated,	)	No.
Plaintiffs,	)	CLASS ACTION
v.	)	
ELOISE ANDERSON, Director of the California Department of Social Services; CALIFORNIA DEPARTMENT OF SOCIAL SERVICES; PETE WILSON, Governor of the State of California CRAIG BROWN, Director of the California Department of Finance,	)	AFFIDAVIT OF JOAN ZORZA, ESQ.
Defendants.	)	

CITY OF NEW YORK)
) ss:.
COUNTY OF NEW YORK)

I, Joan Zorza, Esq., hereby depose and say:

1. I am an attorney-at-law, editor of the Domestic Violence Report ("the Report"), a national publication on domestic violence, and President of the New York State Coalition Against Domestic Violence (NYSCADV). I have worked as a lawyer for the past sixteen years in the area of women's rights and family law, with a particular emphasis on domestic violence.

2. In addition to my overall legal experience, of particular relevance to this case is my work with poor battered women. At Greater Boston Legal Services in Boston, Massachusetts I represented litigants in domestic violence, divorce, custody and education law cases. At the National Battered Women's Law Project with the National Center on Women and Family Law, a legal services backup center, I provided various forms of assistance to advocates, policy makers and attorneys on legal issues faced by battered women. A copy of my resume is attached.

3. I have conducted extensive research and authored a number of articles on the intersection of welfare, poverty and domestic violence in the course of my work on domestic violence issues. These include *Woman Battering: A Major Cause of Homelessness*, 25 Clearinghouse Rev. 421 (1991); *Woman Battering: High Costs and the State of the Law*, 28 Clearinghouse Rev. 383 (1994); *Mandatory Arrest: A Step Toward Ending Domestic Violence*, 10 (3) Crim. Just. 2, American Bar Association (1995); and *Recognizing and Protecting the Privacy and confidentiality Needs of Battered Women*, 29 Fam. L.Q. 273 (1995). I have participated in training and speaking engagements on the impact of welfare reform on battered women, their safety and their inability to secure housing. I have a broad knowledge of the research regarding domestic violence and battered women. I am familiar with California's durational residency requirement as stated in the California Welfare and Institutions Code Section 11450.03(a) and feel well qualified to comment on the impact that California's durational residency requirement will have on battered women seeking welfare assistance.

4. Between three and four million women each year are battered by husbands, boyfriends and partners. *Domestic Violence: Not Just A Family Matter: Hearing Before the Subcommittee on Crime and Criminal Justice of the House Committee on the Judiciary*, 103d Cong., 2d Sess. (June 30, 1994) (statement of Senator Joseph Biden, Jr.). Poor women are particularly affected by this epidemic. Women aged 19 to 29 and women in families with incomes below $10,000 are more likely than other women to be victims of violence by an intimate. Ronet Bachman, *Violence Against Women: Estimates from the Redesigned Survey*, Bureau of Justice Statistics, U.S. Dep't of Justice, Aug. 1995, at 1.

5. In general, a durational residency requirement will result in the unequal treatment of poor people who move across state lines. This is especially true of women in abusive relationships who must often flee across state in order to escape domestic violence. *See* Martha F. Davis & Susan J. Kraham, *Protecting Women's Welfare in the Face of Violence*, 22 Fordham Urb. L.J. 1141, 1144 (1995) Battered women are often subjected to complete control and financial isolation by their batterers. Their economic vulnerability is exacerbated by their need to flee persistent and escalating violence, a situation which often results in short-term indigence. Gretchen P. Mullins, *The Battered Woman and Homelessness*, 3 J. Of L. and Pub. Policy 237, 244 (1994); Barbara P. Davidson & Pamela J. Jenkins, *Class Diversity in Shelter Life*, 34 Social Work 491, 492 (1989). Batterers commonly isolate women from financial resources, including access to cash, checking accounts or charge accounts. Lenore Walker, Battered Woman Syndrome 288 (1984). Lisa G. Lerman, *A Model State Act: Remedies for Domestic Abuse*, 21 Harv. J. On Legis. 61, 90

(1984). Moreover, these women face a high-risk of homelessness and other poverty-related ills. Ellen L. Bassuk, Angela Browne & John Buckner, *Single Mothers and Welfare*, Scientific American 60, 62 (Oct. 1996). Battered women with or without children comprise a significant portion of the homeless population. A move across state lines is often their only recourse in protecting themselves and their children from violence at the hands of an abuser.

6. Further, separation from an abusive partner is the most dangerous time for many battered women. Abusers do not lightly relinquish control and battering often increases after separation as abusers attempt to either coerce the woman into returning or to retaliate against for her leaving in the first place. *See* Mildred Pagelow, *Justice for Victims of Spouse Abuse in Divorce and Custody Cases*, 8 Violence and Victims 69, 77 (1993); Margo Wilson and Martin Daly, Spousal Homicide Risk and Estrangement, 8 Violence and Victims 3 (1993); Martha R. Mahoney, Legal Images of Battered Women: Redefining the Issue of Separation, 90 Mich. L. Rev. 1, 5-6 (1991). Therefore, victims of domestic violence must often put great distance between themselves and their batterers in order to be safe. Shelter and emotional support from family members and friends who live in another state is often their only recourse during this critical period.

7. A residency requirement such as California's may have the effect of perpetuating domestic violence, given battered women's increased economic need at a particularly vulnerable time. My research, as well as that of others, has documented that access to economic resources and housing are significant factors in battered women's

ability to escape and remain separate from their abusers. Without access to the support necessary to survive at a minimal level, a victim of domestic violence may be forced to choose between abuse or homelessness and indigence. *See* Mary Anne Allard, Randy Albelda, Mary Ellen Colten & Carol Cosenza, *In Harm's Way? Domestic Violence, AFDC Receipt, and Welfare Reform in Massachusetts*, Center for Survey Research, University of Massachusetts – Boston (Feb. 1997). This would be particularly true in a state with a high cost of living like California.

8. In sum, the denial of adequate assistance to battered women who flee across state lines to escape abuse will only exacerbate the physical, psychological and financial obstacles these women face.

/s/ Joan Zorza
Joan Zorza, Esq.

Sworn to before me this
23rd day of April, 1997

/s/ Kathryn J. Rodgers
Notary Public

KATHRYN J. RODGERS
Notary Public
State of New York, No. 02R04516360
Qualified In New York County
Commission Expires April 30, 1999

Declaration Of David S. Schwartz
In Support Of Preliminary Injunction (Excerpts)

[ATTORNEYS' NAMES OMITTED]

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BRENDA ROE and ANNA DOE, on behalf of themselves and all others similarly situated, Plaintiffs, v. ELOISE ANDERSON, Director of the California Department of Social Services, et al. Defendants.	NO. CIV-S-97-0529 DFL JFM CLASS ACTION **DECLARATION OF DAVID S. SCHWARTZ IN SUPPORT OF PRELIMINARY INJUNCTION** Date: May 16, 1997 Time: 9:00 a.m.

* * *

2. Many of the exhibits filed with plaintiffs' moving papers in support of the pending motion for preliminary injunction were previously filed with this court in connection with *Green v. Anderson*, 811 F.Supp. 516 (E.D. Cal. 1993). Those previously-filed exhibits include *all* of the exhibits relating to the legislative history of proposed statutory predecessors to Cal. Welf. & Inst. Code § 11450.03, to which defendants have objected in their opposition to the pending motion for preliminary injunction. Specifically, plaintiffs exhibits nos. 1, 4-13 were all filed with this Court in *Green*. For the Court's ease of

reference, these exhibits bear the same exhibit numbers in this case as they were assigned by plaintiffs in *Green*.

3. Attached hereto as Exhibit A is a true and correct copy of a brief filed by the United States in *V.C. v. Whitburn*, Civ. No. 94-C-1028, in the United States District Court for the Eastern District of Wisconsin. That case, like this case and *Green*, involved a two-tier AFDC benefit system in Wisconsin resulting from a durational residency requirement which would have provided less than full Wisconsin benefits to persons who had not resided within the state for six months.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 25th day of April, 1997, at Los Angeles, California.

/s/ David S. Schwartz
DAVID S. SCHWARTZ

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

V.C., *et al.*, Plaintiffs, v. GERALD WHITBURN, *et al.*, Defendants.	Civil Action No. 94-C-1028 (Curran, J.)

FEDERAL DEFENDANTS' SUPPLEMENTAL RESPONSE TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

I.

STATEMENT

On December 23, 1994, defendants Donna Shalala, Secretary of the U.S. Department of Health and Human Services ("HHS"), Mary Jo Bane, Assistant Secretary for Children and Families at HHS, and Bruce Vladeck, Administrator of the Health Care Financing Administration of HHS (collectively "federal defendants"), filed their Response to Plaintiffs' Motion for Preliminary Injunction ("Response"). In their Response, federal defendants explained that under existing United States Supreme Court precedent, any two-tier benefits system, including the one employed here by the State of Wisconsin in its aid to Families with Dependent Children ("AFDC") demonstration project, raises serious constitutional questions. At the time we filed the Response, however, federal defendants believed that the Supreme

Court's resolution of *Anderson v. Green, cert. granted,* ___ U.S. ___, 115 S. Ct. 306 (1994), would bear significantly on the constitutional issues raised by plaintiffs here. In light of both these factors, in their December 23, 1994 Response, federal defendants stated that they did not object to the entry of a preliminary injunction in this case pending a decision by the Supreme Court in the *Green* case.

However, in a short *per curiam* decision, the Supreme Court vacated the judgment in *Anderson v. Green* on February 22, 1995, concluding that there was no justiciable controversy before it and that, therefore, the case was not ripe for decision. ___ U.S. ___, 115 S. Ct. 1059 (1995). The effect of this action is to leave undisturbed the Supreme Court precedent which existed prior to the grant of *certiorari* in *Green*.

Federal defendants believe that this governing Supreme Court precedent renders it unlikely that a lower court would find the Wisconsin project constitutional. For that reason, federal defendants do not object to this Court's granting plaintiffs' request for a preliminary injunction. The issuance of a preliminary injunction would preserve the *status quo* with respect to the challenged Wisconsin two-tier demonstration project, would facilitate the litigation and resolution of the constitutional issues in this case, and preserve the possibility of presenting the Supreme Court with a ripe constitutional issue.

II.

ARGUMENT

Wisconsin's AFDC Two-Tier Demonstration Project Raises Serious Constitutional Questions And As A Result Plaintiffs' Request For Preliminary Injunction Should Be Granted

As federal defendants have explained previously, in a line of cases that dates back at least to *Edwards v. People of the State of California,* 314 U.S. 160 (1941), the Supreme Court has repeatedly invalidated state provisions that deny or restrict benefits to state residents based on the recency of their arrival. *See, e.g., Attorney General of New York v. Soto-Lopez,* 476 U.S. 898 (1986); *Hooper v. Bernalillo County Assessor,* 472 U.S. 612 (1985); *Zobel v. Williams,* 457 U.S. 55 (1982); *Memorial Hospital v. Maricopa County,* 415 U.S. 250 (1973); *Shapiro v. Thompson,* 394 U.S. 618 (1969). The Supreme Court has demonstrated particular concern with protection of the indigent.

Most on point for purposes of this litigation is *Shapiro v. Thompson,* 394 U.S. 618 (1969), where the Court considered provisions of several different statutes which denied all AFDC benefits to residents of less than one year. Finding that the durational residency requirements penalized the exercise of the right to travel, the Supreme Court's analysis relied both on the constitutional right to travel and on equal protection principles. *See* 394 U.S. at 629-631. The Supreme Court concluded that

> even under traditional equal protection tests a classification of welfare applicants according to whether they have lived in the State for one year would seem irrational and unconstitutional. But, of course, the traditional criteria do not apply in

> these cases. Since the classification here touches on the fundamental right of interstate movement, its constitutionality must be judged by the stricter standard of whether it promotes a compelling state interest. Under this standard, the waiting-period requirement clearly violates the Equal Protection Clause.

Id. at 648 (footnotes omitted).

There are several distinctions between this case and *Shapiro*. First, under the Wisconsin two-tier demonstration project, which is being employed in only four of Wisconsin's 72 counties, recent residents of Milwaukee, Racine, Kenosha and Rock counties would receive the amount of AFDC benefits payable in their former state of residence, regardless of whether they are higher or lower than Wisconsin-level AFDC benefits. In some instances, this may result in beneficiaries faring better than they would have in their prior state of residence. *See, e.g.*, Affidavit of Donna Cochems in Opposition to Motion for Temporary Injunction at 9-12, filed on December 23, 1994 in support of state defendants' Opposition To Motion For Preliminary Injunction. Second, if new residents in the four demonstration counties moved outside of these counties, they would immediately be eligible for full Wisconsin-level AFDC benefits. Third, AFDC benefits for recent residents in the four Wisconsin demonstration counties are affected for only a six-month period.[1] As the Supreme Court recognized in *Memorial Hospital*,

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[1] Excluded from the two-tier project are persons who at any time previously resided in Wisconsin for at least six months, and persons who apply for AFDC benefits more than 90 days after their arrival to Wisconsin if they have worked for at least 13 weeks. *See* Plaintiffs' Brief in Support of Preliminary Injunction and Temporary Restraining Order at 5 and Exhibit 2 thereto, filed September 13, 1994.

> [a]lthough any durational residence requirement impinges to some extent on the right to travel, the Court in *Shapiro* did not declare such a requirement to be per se unconstitutional. The Court's holding was conditioned . . . by the caveat that some "waiting period residence requirements . . . may not be penalties upon the exercise of the constitutional right of interstate travel." The amount of impact required to give rise to the compelling-state-interest test was not made clear [in *Shapiro v. Thompson*].

415 U.S. at 256-57 (citations omitted).

Nonetheless, federal defendants believe that under existing Supreme Court precedent, the Wisconsin demonstration project would not be held constitutional despite these distinctions, considered either individually or in their entirety. The Supreme Court cases make clear that the relevant comparison has consistently been between new and longtime residents of the same state. *See Attorney General of New York v. Soto-Lopez*, 476 U.S. at 904 (plurality opinion) ("[t]he analysis in all of these cases, however, is informed by the same guiding principle – the right to migrate protects residents of a State from being disadvantaged, or from being treated differently, simply because of the timing of their migration, from other similarly situated residents."). In *Zobel v. Williams*, 457 U.S. 55 (1982), for example, the Supreme Court struck down an Alaska law that granted longtime state residents increased shares of the State's mineral revenues, despite the fact that no other state offered a similar distribution.

The reasons articulated by Wisconsin for the two-tier system would not establish a compelling state interest, and might not even constitute a permissible purpose under the Supreme Court's prior decisions. *Compare Shapiro v. Thompson*, 394 U.S. at 629-631 (durational residency requirement impermissibly penalizes fundamental right to travel, necessitating a compelling state interest) *with Zobel v. Williams*, 457 U.S. at 58-60 (distribution of benefits based on length of residence violates Equal Protection Clause under rational basis review).

Wisconsin has offered at least two reasons why it has proceeded with the two-tier demonstration project. First, "because Wisconsin has finite resources to devote to public welfare programs, the state needs to know whether there are likely to be greater or lesser demands on those resources and needs to know which of its welfare programs are most attractive to its recipient population. . . . [This will] 'help the state carry out its programming and budgeting activities in coming years.' " Brief of Defendants Gerald Whitburn and J. Jean Rogers in Opposition to Motion for Preliminary Injunction ("Opposition") at 44-45 (citations omitted).

As plaintiffs point out, however, similar arguments have been raised and rejected by the Supreme Court as illegitimate state objectives. Plaintiffs' Supplemental Brief In Support Of Preliminary Injunction at 27-29. *See, e.g., Shapiro*, 394 U.S. at 633 ("neither deterrence of indigents from migrating to the State nor limitation of welfare benefits to those regarded as contributing to the State is a constitutionally permissible state objective"); *id.* at 631 ("a State may no more try to fence out those indigents who seek higher welfare benefits than it may try to fence

out indigents generally); *Zobel v. Williams*, 457 U.S. at 63 (desire "to reward citizens for past contributions" is not a valid state objective); *Hooper v. Bernalillo County Assessor*, 472 U.S. at 623 ("[t]he State may not favor established residents over new residents based on the view that the State may take care of 'its own,' if such is defined by prior residence. Newcomers, by establishing bona fide residence in the State, become the State's 'own' and may not be discriminated against solely on the basis of their [recent] arrival in the State. . . . ").

As the district court stated in *Green v. Anderson* in striking down California's two-tier AFDC demonstration project,

> even if the measure were viewed not as a penalty but as similar to the bounty in *Zobel*, it would still be impermissible under the analysis in *Zobel*. If the measure intends to deter settlement into the state of persons who need welfare and seek a higher benefit, it is sensibly designed but has an unconstitutional purpose. If the measure simply seeks to save costs, defendants fail to explain why new residents are better able to bear a reduction in benefits than other residents. . . . [U]nless the purpose here is to deter migration, there is no other rational basis for the distinction drawn among applicants all of whom are California residents.

811 F. Supp. 516, 522-23 (E.D. Cal. 1993). Thus, it is clear, at a minimum, that the very issue of whether at least some of the reasons supplied by Wisconsin could pass constitutional muster as either a compelling or even permissible state interest raises difficult questions.

Wisconsin has also stated that the second purpose of the demonstration project "is to provide information which 'will assist the federal government in considering the appropriateness of setting a regional or national AFDC standard.' . . . If the demonstration project shows that higher AFDC benefits in Wisconsin creates a pull for migration, the project will demonstrate that the problems of child poverty are inequitably shared by higher-benefit and lower-benefit states." Opposition at 45-46 (citations omitted). This second purpose articulated by Wisconsin has not been addressed directly by the Supreme Court, however.

Federal defendants believed that a Supreme Court decision in *Anderson v. Green* would have had a significant impact on the constitutional issues presented here. The question which the Supreme Court took up on *certiorari* in *Green* was whether it is constitutionally permissible for a state to limit a new resident's AFDC benefits to the lower of either the level of benefits received or receivable in the state of prior residence, or the new state's benefit levels, for a period of one year. However, at the *Green* oral argument on January 17, 1995, the State of California stated that even if it prevailed in the Supreme Court, the two-tier demonstration project could not go forward since the state lacked the necessary HHS waivers. *See Anderson v. Green*, ___ U.S. ___, 115 S. Ct. at 1060. Concluding that "[t]he parties have no live dispute now, and whether one will arise in the future is conjectural," the Court held that there was no justiciable controversy before it and that therefore the case was not ripe for

decision. *Id.*[2] As a result, the Court vacated the prior judgments in the case, and remanded the case to the district court with directions to dismiss the case. *Id.* at 1060-61. The Supreme Court stated that "[v]acatur is appropriate . . . to 'clea[r] the path for future relitigation of the issues between parties and [to] eliminat[e] a judgment, review of which was prevented through happenstance.' " *Id.* at 1060-61, citing *United States v. Munsingwear*, 340 U.S. 36, 40 (1950).

The effect of the Supreme Court's failure to issue a decision on the merits in *Anderson v. Green* is to leave undisturbed the Supreme Court precedent which existed prior to the grant of *certiorari*. Based on that precedent, federal defendants believe that plaintiffs are likely to succeed on the merits of their constitutional claims, at least in the lower courts, and therefore do not object to this Court's entry of a preliminary injunction with respect to the Wisconsin two-tier demonstration project. This would, in the words of the Supreme Court, clear the path for future relitigation and resolution of similar constitutional issues to those presented in *Anderson v. Green*.[3]

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[2] In a separate proceeding, *Beno v. Shalala*, 30 F.3d 1057, 1073-76 (9th Cir. 1994), the Ninth Circuit vacated the waiver granted previously by HHS, concluding that the Secretary of HHS had not adequately considered the objections to California's two-tier project. *See Anderson v. Green*, ___ U.S. ___, 115 S. Ct. at 1050.

[3] While federal defendants have indicated that under existing Supreme Court precedent the Wisconsin two-tier demonstration project will likely not be held constitutional in the lower courts, the Supreme Court has demonstrated an interest in the underlying constitutional issues by granting *certiorari* in *Anderson v. Green*. The Supreme Court has also

III.

CONCLUSION

For the foregoing reasons, based on the likelihood that plaintiffs will ultimately succeed on the merits of their constitutional claims in this Court, federal defendants do not object to this Court granting plaintiffs' request for a preliminary injunction.

May 17, 1995

Respectfully submitted,

FRANK W. HUNGER
Assistant Attorney General

THOMAS P. SCHNEIDER
United States Attorney

WILLIAM J. LIPSCOMB
Assistant United States Attorney

/s/ Sheila M. Lieber/ABK
SHEILA M. LIBER

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indicated, however, that if HHS withdraws the waivers necessary to enable a project to proceed, it will dismiss the case as moot. Federal defendants have decided to continue the existing waiver for the Wisconsin project in order to enable the Supreme Court, if it so chooses, to hear and decide the constitutional issues in this case.

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